The SPEAKER. The Chair desires to announce that the Chair will advise the press later in the afternoon of the time arranged for the funeral in the House of Representatives.

The question is on the adoption of the resolution.

The resolution was agreed to.

ADJOURNMENT

Accordingly (at 11 o'clock and 18 minutes a. m.) the House adjourned subject to the call of the Speaker.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

863. A letter from the Chairman of the Securities and Exchange Commission, transmitting another part of the Commission's study and investigation of the work, activities, personnel, and functions of protective and reorganization committees, in pursuance to section 211 of the Securities Exchange Act of 1934; to the Committee on Interstate and Foreign Commerce.

864. A letter from the Chairman of the Federal Trade Commission, transmitting the fourth report of the Federal Trade Commission, regarding the distribution and sale of milk and milk products, entitled "Report of Federal Trade Commission on Milk Market Regulation and Practices of Distributors in Relation to Margins, Costs, and Profits of Distributors in Boston, Baltimore, Cincinnati, and St. Louis" (H. Doc. No. 501); to the Committee on Interstate and Foreign Commerce and ordered to be printed, with illustrations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mrs. NORTON: Committee on the District of Columbia. S. 4511. An act to amend section 641 of the Code of Law for the District of Columbia; without amendment (Rept. No. 2940). Referred to the Committee of the Whole House on the state of the Union.

Mrs. NORTON: Committee on the District of Columbia. S. 4512. An act to amend section 641 of the Code of Law for the District of Columbia; with amendment (Rept. No. 2941). Referred to the Committee of the Whole House on the state of the Union.

Mr. FADDIS: Committee on Military Affairs. S. 4699. An act to provide a commissioned strength for the Corps of Engineers, United States Army, for the efficient performance of military and other statutory duties assigned to that corps; with amendment (Rept. No. 2942). Referred to the Committee of the Whole House on the state of the Union.

Mrs. NORTON: Committee on the District of Columbia. House Joint Resolution 612. Joint resolution for the purpose of increasing and financing employment in the District of Columbia; without amendment (Rept. No. 2943). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mrs. NORTON: Committee on the District of Columbia. H. R. 11695. A bill to provide for the issuance of a license to practice the healing art in the District of Columbia to Dr. Ralph Charles Stuart; without amendment (Rept. No. 2944). Referred to the Committee of the Whole House.

SENATE

FRIDAY, JUNE 5, 1936

(Legislative day of Monday, June 1, 1936)

The Senate met at 11:30 o'clock a. m., on the expiration of the recess.

MESSAGES FROM THE PRESIDENT OF THE UNITED STATES

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had passed the following concurrent resolutions, in which it requested the concurrence of the Senate:

House Concurrent Resolution 53

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Monday, June 8, 1936, they stand adjourned until 12 o'clock meridian Monday, June 15, 1936.

House Concurrent Resolution 54

Resolved by the House of Representatives (the Senate concurring), That, notwithstanding any recesses of the Senate or House of Representatives or the adjournment of the second session of the Seventy-fourth Congress, the President of the Senate and the Speaker of the House of Representatives be, and they are hereby, authorized to sign any enrolled bills or joint resolutions duly passed by the two Houses and which have been examined by the Committee on Enrolled Bills of each House and found truly enrolled.

The message also announced that the House had agreed to the following resolutions:

House Resolution 545

Resolved, That the Clerk of the House is hereby directed to invite the Vice President and the Senate to attend the funeral of the late Speaker, the Honorable JOSEPH W. BYRNS, in the House of Representatives at 12 o'clock meridian on Friday, June 5, 1936.

Resolved, That invitations be extended to the President of the United States and the members of his Cabinet, the Chief Justice and Associate Justices of the Supreme Court of the United States, the Diplomatic Corps (through the Secretary of State), the Chief of Staff of the Army, the Chief of Naval Operations of the Navy, the Major General Commandant of the Marine Corps, and the Commandant of the Coast Guard to attend the funeral in the Hall of the House of Representatives.

FUNERAL OF THE LATE SPEAKER BYRNS

Mr. ROBINSON. Mr. President, I ask the Chair to lay before the Senate the resolution of the House of Representatives inviting the Senate to attend the funeral of the late Speaker BYRNS.

The VICE PRESIDENT. The Chair lays before the Senate a resolution from the House of Representatives, which will be read.

The Chief Clerk read as follows:

House Resolution 545

Resolved, That the Clerk of the House is hereby directed to invite the Vice President and the Senate to attend the funeral of the late Speaker, the Honorable JOSEPH W. BYRNS, in the House of Representatives at 12 o'clock meridian on Friday, June 5, 1936.

Resolved, That invitations be extended to the President of the United States and the members of his Cabinet, the Chief Justice and Associate Justices of the Supreme Court of the United States, the Diplomatic Corps (through the Secretary of State), the Chief of Staff of the Army, the Chief of Naval Operations of the Navy, the Major General Commandant of the Marine Corps, and the Commandant of the Coast Guard to attend the funeral in the Hall of the House of Representatives.

Mr. ROBINSON. I move that the Senate accept the invitation, and that at 11:50 a. m. the Senate proceed in a body to the Hall of the House of Representatives, and that at the conclusion of the services there it return to its Chamber.

The VICE PRESIDENT. Without objection, the motion of the Senator from Arkansas is agreed to.

COMMITTEE TO ATTEND THE FUNERAL OF THE LATE SPEAKER BYRNS AT NASHVILLE, TENN.

The VICE PRESIDENT, under the terms of Senate Resolution 318 (submitted by Mr. MCKELLAR and unanimously agreed to yesterday), appointed as the committee on the part of the Senate to attend the funeral of the late Speaker JOSEPH W. BYRNS at Nashville, Tenn., Mr. MCKELLAR, Mr. BACHMAN, Mr. ROBINSON, Mr. GUFFEY, Mr. CLARK, Mr. SHIPSTEAD, Mr. FRAZIER, Mr. DIETERICH, Mrs. CARAWAY, Mr. BURKE, Mr. MINTON, Mr. DUFFY, Mr. GIBSON, and Mr. O'MAHONEY.

ADJOURNMENT OVER REPUBLICAN CONVENTION PERIOD

The VICE PRESIDENT laid before the Senate the following concurrent resolution from the House of Representatives:

House Concurrent Resolution 53

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Monday, June 8, 1936, they stand adjourned until 12 o'clock meridian Monday, June 15, 1936.

Mr. ROBINSON. I ask unanimous consent for the present consideration of the concurrent resolution.

The VICE PRESIDENT. Is there objection?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. ROBINSON. I move that the Senate agree to the concurrent resolution.

The motion was agreed to.

SIGNING OF BILLS, ETC., DURING RECESS OR ADJOURNMENT

The VICE PRESIDENT laid before the Senate the following concurrent resolution from the House of Representatives, which was considered by unanimous consent and agreed to:

House Concurrent Resolution 54

Resolved by the House of Representatives (the Senate concurring), That, notwithstanding any recesses of the Senate or House of Representatives or the adjournment of the second session of the Seventy-fourth Congress, the President of the Senate and the Speaker of the House of Representatives be, and they are hereby, authorized to sign any enrolled bills or joint resolutions duly passed by the two Houses and which have been examined by the Committee on Enrolled Bills of each House and found truly enrolled.

RECESS

Mr. ROBINSON. I move that the Senate take a recess until 11:50 o'clock a. m.

The motion was agreed to; and (at 11 o'clock and 35 minutes a. m.) the Senate took a recess until 11 o'clock and 50 minutes a. m.

FUNERAL OF THE LATE SPEAKER BYRNS

At the expiration of the recess the Senate reassembled.

Mr. ROBINSON. Mr. President, I move that the order entered earlier today be modified so as to provide that the Senate shall proceed to the Hall of the House of Representatives at 6 minutes to 12 o'clock.

The VICE PRESIDENT. Without objection, the order will be modified as requested by the Senator from Arkansas.

At 11 o'clock and 54 minutes a. m. the Senate, headed by the Sergeant at Arms, the Vice President, the Chaplain, and the Secretary, proceeded to the Hall of the House of Representatives.

At 12 o'clock and 50 minutes p. m. the Senate returned to its Chamber and resumed its session.

THE JOURNAL

On request of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar days of June 3 and June 4, 1936, was dispensed with, and the Journal was approved.

RECESS

Mr. ROBINSON. I move that the Senate take a recess until 2 o'clock this afternoon.

The motion was agreed to; and (at 12 o'clock and 52 minutes p. m.) the Senate took a recess until 2 o'clock p. m.

At the expiration of the recess the Senate reassembled.

CALL OF THE ROLL

Mr. ROBINSON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Bilbo	Burke	Clark
Austin	Black	Byrd	Connally
Bachman	Bone	Byrnes	Coolidge
Bailey	Borah	Capper	Copeland
Barbour	Brown	Caraway	Couzens
Barkley	Bulkley	Carey	Davis
Benson	Bulow	Chavez	Dieterich
Donahey	Keyes	Murray	Smith
Duffy	King	Neely	Steiwer
Fletcher	La Follette	Norris	Thomas, Okla.
Frazier	Lewis	Nye	Thomas, Utah
George	Loftin	O'Mahoney	Townsend
Gerry	Lonergan	Overton	Truman
Gibson	Long	Pittman	Tydings
Glass	McAdoo	Pope	Vandenberg
Guffey	McGill	Radcliffe	Van Nuys
Hale	McKellar	Reynolds	Wagner
Hastings	McNary	Robinson	Walsh
Hatch	Maloney	Russell	Wheeler
Hayden	Minton	Schwellenbach	White
Holt	Moore	Sheppard	
Johnson	Murphy	Shipstead	

Mr. LEWIS. I announce that the Senator from Alabama [Mr. BANKHEAD], the Senator from Colorado [Mr. COSTIGAN], the Senator from Mississippi [Mr. HARRISON], and the Senator from Nevada [Mr. MCCARRAN] are absent because of illness, and that the Senator from Oklahoma [Mr. GORE], the Senator from Kentucky [Mr. LOGAN] are necessarily detained from the Senate.

Mr. AUSTIN. I announce that the Senator from Iowa [Mr. DICKINSON] and the Senator from Rhode Island [Mr. METCALF] are necessarily absent.

The VICE PRESIDENT. Eighty-six Senators have answered to their names. A quorum is present.

DAMAGE CLAIMS FROM OPERATION OF GOVERNMENT VESSELS

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 3818) authorizing the Secretary of the Treasury to consider, ascertain, adjust, and determine certain claims for damages resulting from the operation of vessels of the Coast Guard and Public Health Service, which were to strike out all after the enacting clause and insert:

That the Secretary of the Treasury may consider, ascertain, adjust, and determine any claim accruing after the approval of this act, on account of damages occasioned by collisions or incident to the operation of vessels of the United States Coast Guard or of the United States Public Health Service, and for which damage the said vessels shall be found to be responsible, and such amount as may be ascertained and determined to be due any claimant, not exceeding $3,000 in any one case, shall be certified to Congress as a legal claim for payment out of appropriations that may be made by Congress therefor, together with a brief statement of the character of each claim, the amount claimed, and the amount allowed: *Provided*, That no claim shall be considered under this act unless presented to the Secretary of the Treasury within 1 year from the date of the accrual of said claim: *Provided further*, That acceptance by any claimant of the amount determined to be due under the provisions of this act shall be deemed to be in full and final settlement of such claim against the Government of the United States.

And to amend the title so as to read: "An act to provide for the adjustment and settlement of certain claims for damages resulting from the operation of vessels of the Coast Guard and Public Health Service."

Mr. BAILEY. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

REPORT ON MILK AND MILK PRODUCTS IN CERTAIN AREAS

The VICE PRESIDENT laid before the Senate a letter from the Chairman of the Federal Trade Commission, transmitting, pursuant to House Concurrent Resolution 32 (73d Cong., 2d sess.), a fourth report of the Commission regarding the distribution and sale of milk and milk products, entitled "Report of Federal Trade Commission on Milk Market Regulation and Practices of Distributors in Relation to Margins, Costs, and Profits of Distributors in Boston, Baltimore, Cincinnati, and St. Louis", which, with the accompanying report, was referred to the Committee on Agriculture and Forestry.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate the following concurrent resolution of the Legislature of the State of Louisiana, which was referred to the Committee on Finance:

Whereas the loss of income due to the loss of work by reason of unemployment, old age, or disability has resulted in the unparalleled destitution of millions of workers throughout the United

States, lowered the living standards of all workers, and seriously jeopardized the welfare of all the people; and

Whereas it is impossible for individual workers to secure themselves against such loss of work because mass unemployment and the other factors responsible for such loss primarily due to the operation of social and economic forces which are beyond the control of individuals or private bodies, and because the earnings of most workers during employment are barely sufficient to provide for more than immediate living expenses; and

Whereas it is in the interest of protecting the living standards and general welfare of the people that Government shall insure every worker against loss of income due to unemployment, old age, or other disability, and this obligation must be recognized by each State government; and

Whereas a fully adequate system of social insurance can best be created and administered on a national basis, since industry is predominantly national in scope, since the Federal Government, with its vast resources and imponderable taxing power, can best provide the necessary funds to administer such a system, since State systems cannot adequately provide for workers who necessarily change residence from State to State, and since, finally, there are unquestionable administrative advantages in a uniform and integrated Federal system as against the contradiction and chaos of different systems in different States; and

Whereas the Federal workers' social insurance bill, introduced in the United States Senate by Senator LYNN J. FRAZIER and the House of Representatives by Representative ERNEST LUNDEEN, and identified as S. 3475 and H. R. 9680, provides for the establishment of an adequate Federal system of social insurance, providing for compensation for the unemployed, the aged, the disabled, and others: Now, therefore, be it

Resolved, That the Legislature of the State of Louisiana hereby memorializes the United States Congress to enact the Federal workers' social insurance bill, S. 3475 and H. R. 9680, without further delay; and be it further

Resolved, That a copy of this resolution be immediately transmitted to the President of the United States, United States Senator LYNN J. FRAZIER, Representative ERNEST LUNDEEN, the Secretary of the United States Senate, the Clerk of the House of Representatives, and to each Member of Congress of the United States, and that the Members of Congress be urged to use their best offices to procure the speedy enactment of this bill.

The VICE PRESIDENT also laid before the Senate a resolution of the Senate of the State of Massachusetts protesting against the enactment of legislation relative to price fixing of coal, which was referred to the Committee on Interstate Commerce.

(See resolution printed in full when presented today by Mr. WALSH.)

The VICE PRESIDENT also laid before the Senate a resolution adopted by the Newark, N. J., branch of the National Association for the Advancement of Colored People, favoring the prompt enactment of antilynching legislation, which was ordered to lie on the table.

He also laid before the Senate resolutions adopted by the mayor and Common Council of the City of San Bernardino, Calif., and the Council of the City of Springfield, Ill., favoring the prompt enactment of Senate bill 4424, known as the Wagner-Ellenbogen low-cost housing bill, which were ordered to lie on the table.

Mr. COPELAND presented memorials of sundry citizens, being members of New York Sign Writers Local Union 230, of New York City, and of citizens of New York State, remonstrating against the passage of the so-called Russell sedition bill, which were referred to the Committee on the Judiciary.

He also presented memorials of citizens of the State of New York remonstrating against the enactment of legislation to suppress efforts to incite members of the enlisted forces of the Army and Navy to disobedience of orders, which were ordered to lie on the table.

Mr. WALSH presented a letter in the nature of a memorial from the Worcester, Mass., Laundry Owners Club, remonstrating against the adoption of the so-called Bailey amendment imposing a tax on tallow or soap-making materials, which was ordered to lie on the table.

Mr. WALSH. Mr. President, I present and ask to have printed in the RECORD and appropriately referred resolutions of the Massachusetts State Senate memorializing Congress in opposition to certain pending legislation relative to price-fixing of coal.

There being no objection, the resolutions were referred to the Committee on Interstate Commerce and ordered to be printed in the RECORD, as follows:

Resolutions memorializing Congress in opposition to certain pending legislation relative to price-fixing of coal

Whereas there is now pending before the Congress of the United States a bill to provide for Government price-fixing of coal; and

Whereas the enactment of said bill would inevitably be followed by a substantial increase in the cost of coal to American homes and industries; and

Whereas it would be contrary to the public interests for the Congress to pass laws to compel our citizens to pay higher prices for coal than competitive conditions really warrant; and

Whereas there is grave doubt that Congress has power to fix the price of coal, particularly in view of the decision of the Supreme Court of the United States in the recent Guffey Coal Act case, so-called; and that if any such power does exist in Congress it should be used for the protection of the people against excessive charges for coal and not for the purpose of establishing a monopoly for the benefit of a privileged group of coal operators; and

Whereas the Senate of Massachusetts believes that the enactment of any such measure to fix prices for coal would be but the first step in the enactment of laws to similarly regulate prices of innumerable articles shipped in interstate commerce and that the exercise of any such power would tend to weaken or destroy the power of the States: Therefore be it

Resolved, That the Senate of Massachusetts respectfully urges the Congress of the United States to reject the aforesaid bill; and be it further

Resolved, That the secretary of the Commonwealth be directed to send forthwith copies of these resolutions to the presiding officers of both branches of Congress and to the Members of Congress from this Commonwealth.

REPORTS OF COMMITTEES

Mrs. CARAWAY, from the Committee on Commerce, to which was referred the bill (S. 3958) to prevent the pollution of the navigable waters of the United States, and for other purposes, reported it with amendments and submitted a report (No. 2224) thereon.

She also, from the same committee, to which was referred the bill (S. 3959) to amend section 13 of the act of March 3, 1899, relating to the deposit of refuse in the navigable waters of the United States, and section 3 of the Oil Pollution Act, 1924, reported it with an amendment and submitted a report (No. 2225) thereon.

She also, from the same committee, to which was referred the bill (S. 4342) to create a Division of Stream Pollution in the Bureau of the Public Health Service, and for other purposes, reported it without amendment and submitted a report (No. 2226) thereon.

Mr. ADAMS, from the Committee on Irrigation and Reclamation, to which were referred the following bills, reported them each with an amendment and submitted reports thereon:

S. 3957. A bill granting the consent of Congress to the States of Montana and Wyoming to negotiate and enter into a compact or agreement for division of the waters of the Yellowstone River (Rept. No. 2227); and

H. R. 6773. A bill to deepen the irrigation channel between Clear Lake and Lost River, in the State of California, and for other purposes (Rept. No. 2228).

Mr. NORRIS, from the Committee on Agriculture and Forestry, to which was referred the bill (S. 4723) to authorize cooperation in the development of farm forestry in the States and Territories, and for other purposes, reported it without amendment and submitted a report (No. 2229) thereon.

Mr. THOMAS of Oklahoma, from the Committee on Indian Affairs, to which was referred the bill (H. R. 11643) to amend certain provisions of the act of March 7, 1928 (45 Stat. L. 210–212), reported it without amendment and submitted a report (No. 2230) thereon.

He also, from the same committee, to which was referred the joint resolution (S. J. Res. 177) to define the term of certain contracts with Indian tribes, reported it with an amendment and submitted a report (No. 2231) thereon.

He also, from the same committee, to which was recommited the bill (H. R. 8588) to authorize the deposit and investment of Indian funds, reported it with amendments and submitted a report (No. 2232) thereon.

Mr. SMITH, from the Committee on Agriculture and Forestry, to which were referred the following bill and joint resolution, reported them each without amendment and submitted reports thereon:

H. R. 8759. A bill to amend the act known as the "Perishable Agricultural Commodities Act, 1930", approved June 10, 1930, as amended (Rept. No. 2233); and

H. J. Res. 444. Joint resolution to amend the joint resolution entitled "Joint resolution authorizing the Federal Trade Commission to make an investigation with respect to agricultural income and the financial and economic condition of agricultural producers generally", approved August 27, 1935 (Rept. No. 2284).

He also, from the same committee, to which was referred the bill (S. 4740) to provide a graduated scale of reduction of payments under section 8 of the Soil Conservation and Domestic Allotment Act, reported it with an amendment and submitted a report (No. 2234) thereon.

Mr. BAILEY, from the Committee on Claims, to which were referred the following bills, reported them severally without amendment and submitted reports thereon·

H. R. 7743. A bill for the relief of Mrs. David C. Stafford (Rept. No. 2235);

H. R. 10677. A bill for the relief of Cora Fulghum and Ben Peterson (Rept. No. 2236);

H. R. 11262. A bill for the relief of Brooks-Callaway Co. (Rept. No. 2237);

H. R. 12522. A bill for the relief of Grier-Lowrance Construction Co., Inc. (Rept. No. 2239); and

H. R. 12311. A bill for the relief of the P. L. Andrews Corporation (Rept. No. 2238).

Mr. TOWNSEND, from the Committee on Claims, to which was referred the bill (H. R. 3160) for the relief of Irene Magnuson and Oscar L. Magnuson, her husband, reported it without amendment and submitted a report (No. 2240) thereon.

He also, from the same committee, to which was referred the bill (S. 2976) for the relief of John Edgar White, a minor, reported it with amendments and submitted a report (No. 2241) thereon.

Mr. CAPPER, from the Committee on Claims, to which was referred the bill (H. R. 5870) for the relief of K. S. Szymanski, reported it without amendment and submitted a report (No. 2242) thereon.

Mr. BLACK, from the Committee on Claims, to which was referred the bill (H. R. 300) for the relief of F. P. Bolack, reported it without amendment and submitted a report (No. 2243) thereon.

Mr. BURKE, from the Committee on Claims, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 4699. A bill for the relief of Estelle M. Gardiner (Rept. No. 2244);

H. R. 8671. A bill for the relief of R. H. Quynn, lieutenant, United States Navy (Rept. No. 2245); and

H. R. 10916. A bill for the relief of Carl Hardin, Orville Richardson, and W. E. Payne (Rept. No. 2246).

Mr. BURKE also, from the Committee on Claims, to which were referred the following bills, reported them severally with an amendment and submitted reports thereon:

S. 1790. A bill for the relief of Margaret Murphy (Rept. No. 2305);

H. R. 237. A bill for the relief of the Rowesville Oil Co. (Rept. No. 2301);

H. R. 254. A bill for the relief of the Farmers' Storage & Fertilizer Co., of Aiken, S. C. (Rept. No. 2300); and

H. R. 3866. A bill to confer jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of Emanuel Bratses (Rept. No. 2289).

Mr. BURKE also, from the same committee, to which was referred the bill (S. 4456) for the relief of the estate of Charles White, reported it with amendments and submitted a report (No. 2247) thereon.

Mr. COOLIDGE, from the Committee on Claims, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 2262. A bill for the relief of William H. Locke (Rept. No. 2248);

H. R. 4219. A bill for the relief of John J. Ryan (Rept. No. 2249);

H. R. 4955. A bill for the relief of the estate of Jennie Brenner (Rept. No. 2250);

H. R. 8028. A bill for the relief of the Great Northern Railway Co. (Rept. No. 2251);

H. R. 8033. A bill for the relief of Juanita Filmore, a minor (Rept. No. 2252); and

H. R. 8200. A bill for the relief of the seamen of the steamship *Santa Ana* (Rept. No. 2253).

Mrs. LONG, from the Committee on Claims, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

S. 4362. A bill for the relief of Rufus C. Long (Rept. No. 2254);

S. 4363. A bill for the relief of B. W. Winward (Rept. No. 2255);

H. R. 2495. A bill for the relief of Thomas Berchel Burke (Rept. No. 2256);

H. R. 2496. A bill for the relief of Thomas J. Moran (Rept. No. 2257);

H. R. 2497. A bill for the relief of William H. Hildebrand (Rept. No. 2258);

H. R. 3388. A bill for the relief of Jessie D. Bowman (Rept. No. 2259); and

H. R. 7270. A bill for the relief of Clara Imbesi and Domenick Imbesi (Rept. No. 2260).

Mr. SCHWELLENBACH, from the Committee on Claims, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 796. A bill for the relief of A. E. Clark (Rept. No. 2261);

H. R. 993. A bill for the relief of Frank A. Boyle (Rept. No. 2285);

H. R. 2259. A bill for the relief of Addie I. Tryon and Lorin H. Tryon (Rept. No. 2262);

H. R. 2400. A bill for the relief of Blanche Knight (Rept. No. 2263);

H. R. 3907. A bill for the relief of James L. Park (Rept. No. 2286);

H. R. 4373. A bill for the relief of Albert Gonzales (Rept. No. 2264);

H. R. 4619. A bill for the relief of Joseph Salinghi (Rept. No. 2265); and

H. R. 5752. A bill for the relief of May Wynne Lamb (Rept. No. 2266).

Mr. SCHWELLENBACH also, from the Committee on Claims, to which was referred the bill (H. R. 2619) for the relief of R. E. Sutton, Lula G. Sutton, Grace Sutton, and Mary Lou Drinkard, reported it with amendments and submitted a report (No. 2267) thereon.

Mr. LOFTIN, from the Committee on Claims, to which were referred the following bills and joint resolution, reported them severally without amendment and submitted reports thereon:

H. R. 5635. A bill conferring jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of the mayor and aldermen of Jersey City, Hudson County, N. J., a municipal corporation (Rept. No. 2268);

H. R. 11203. A bill for the relief of Andrew Smith (Rept. No. 2269);

H. R. 11461. A bill for the relief of the estates of N. G. Harper and Amos Phillips (Rept. No. 2270); and

H. J. Res. 522. Joint resolution for the relief of William W. Brunswick (Rept. No. 2271).

Mr. LOFTIN also, from the Committee on Claims, to which was referred the bill (S. 4724) for the relief of Henry C. Anderson, reported it with an amendment and submitted a report (No. 2272) thereon.

He also, from the same committee, to which were referred the following bills, reported them severally with amendments and submitted reports thereon:

S. 4204. A bill for the relief of Winifred E. Hester (Rept. No. 2273);

S. 4478. A bill for the relief of Joseph N. Wenger, lieutenant, United States Navy, and for other purposes (Rept. No. 2275); and

S. 4591. A bill for the relief of the children of Rees Morgan (Rept. No. 2274).

Mr. BENSON, from the Committee on Claims, to which was referred the bill (H. R. 10527) for the relief of Harris Bros. Plumbing Co., reported it without amendment and submitted a report (No. 2276) thereon.

He also, from the same committee, to which were referred the following bills, reported them severally with amendments and submitted reports thereon:

S. 3484. A bill for the relief of Edward Y. Garcia and Aurelia Garcia (Rept. No. 2277);

S. 4160. A bill for the relief of F. M. Loeffler (Rept. No. 2278);

H. R. 1695. A bill for the relief of Margaret Grace and Alice Shriner (Rept. No. 2279); and

H. R. 8220. A bill for the relief of Helen Mahar Johnson (Rept. No. 2290).

Mr. McNARY, from the Committee on Commerce, to which was referred the bill (S. 4695) to authorize completion, maintenance, and operation of certain facilities for navigation on the Columbia River, and for other purposes, reported it with amendments and submitted a report (No. 2280) thereon.

Mr. POPE, from the Committee on Agriculture and Forestry, to which were referred the following bill and joint resolution, reported them each without amendment and submitted reports thereon:

S. 4392. A bill to add certain lands to the Sawtooth National Forest (Rept. No. 2281); and

S. J. Res. 171. Joint resolution providing for the establishment of a game-management supply depot and laboratory, and for other purposes (Rept. No. 2282).

Mr. BARBOUR, from the Committee on Military Affairs, to which was referred the bill (S. 4737) to provide for the sale of the Port Newark Army Base to the city of Newark, N. J., and for other purposes, reported it without amendment and submitted a report (No. 2283) thereon.

Mr. HAYDEN, from the Committee on Post Offices and Post Roads, to which was referred the bill (H. R. 10591) to authorize the Secretary of Agriculture to investigate and report on traffic conditions, with recommendations for corrective legislation, reported it without amendment and submitted a report (No. 2287) thereon.

Mr. SHEPPARD, from the Committee on Commerce, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 11819. A bill to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Arrow Rock, Mo. (Rept. No. 2288);

H. R. 11820. A bill to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Miami, Mo. (Rept. No. 2295);

H. R. 12006. A bill to authorize a preliminary examination of the Kennebec River, Maine, and its tributaries, with a view to the control of their floods (Rept. No. 2296);

H. R. 12202. A bill to provide for a preliminary examination of Six Mile Creek in Logan County, Ark., with a view to flood control and to determine the cost of such improvement (Rept. No. 2308);

H. R. 12240. A bill to authorize a preliminary examination of the tributaries, sources, and headwaters of the Allegheny and Susquehanna Rivers in the State of Pennsylvania, where no examination and survey has heretofore been made, with a view to the control of their floods and the regulation and conservation of their waters (Rept. No. 2309);

H. R. 12514. A bill authorizing the Chesapeake Bay Authority to construct, maintain, and operate a toll bridge across the Chesapeake Bay from a point in Baltimore County, Md., over Hart Island and Millers Island to a point near Tolchester, Kent County, Md. (Rept. No. 2310); and

H. R. 12685. A bill granting the consent of Congress to the county of Horry, S. C., to construct, maintain, and operate a free highway bridge across the Waccamaw River at or near Red Bluff, S. C. (Rept. No. 2311).

Mr. SHEPPARD also, from the Committee on Military Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

H. R. 10712. A bill to authorize the transfer of land from the War Department to the Territory of Hawaii (Rept. No. 2291); and

H. R. 11916. A bill to authorize the transfer of a certain piece of land in Muhlenberg County, Ky., to the State of Kentucky (Rept. No. 2292).

Mr. WHITE, from the Committee on Commerce, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

H. R. 12007. A bill to authorize a preliminary examination of the Penobscot River, Maine, and its tributaries, with a view to the control of their floods (Rept. No. 2297); and

H. R. 12008. A bill to authorize a preliminary examination of the Androscoggin River, in Maine and New Hampshire, and its tributaries, with a view to the control of their floods (Rept. No. 2298).

Mr. WALSH, from the Committee on Education and Labor, to which were referred the following bills, reported them each with amendments and submitted reports thereon:

H. R. 7293. A bill to amend the act approved June 16, 1934, entitled "An act to provide relief to Government contractors whose costs of performance were increased as a result of compliance with the act approved June 16, 1933, and for other purposes" (Rept. No. 2293); and

H. R. 12599. A bill to provide more adeqate protection to workmen and laborers on projects, buildings, constructions, improvements, and property wherever situated, belonging to the United States of America, by granting to the several States jurisdiction and authority to enter upon and enforce their State workmen's compensation, safety, and insurance laws on all property and premises belonging to the United States of America (Rept. No. 2294).

Mr. GUFFEY, from the Committee on Commerce, to which was referred the bill (H. R. 12002) to authorize a preliminary examination of the Lackawanna River with a view to the control of its flood, reported it without amendment and submitted a report (No. 2299) thereon.

Mr. COPELAND, from the Committee on Commerce, to which was referred the bill (H. R. 12056) authorizing the State of Iowa, acting through its State Highway Commission, and the State of Nebraska, acting through its Department of Roads and Irrigation, to construct, maintain, and operate a free or toll bridge across the Missouri River at or near Dodge Street in the city of Omaha, Nebr., reported it without amendment and submitted a report (No. 2306) thereon.

Mr. BARKLEY, from the Committee on Interstate Commerce, to which was referred the bill (S. 1288) to promote the safety of employees and travelers on railroads by requiring common carriers engaged in interstate commerce to install, inspect, test, repair, and maintain block-signal systems, interlocking, highway grade-crossing protective devices, automatic train stop, train control, cab-signal devices, and other appliances, methods, and systems intended to promote the safety of railroad operation, reported it without amendment and submitted a report (No. 2307) thereon.

Mr. GIBSON, from the Committee on Claims, to which was recommitted the bill (H. R. 8824) for the relief of the estate of John Gellatly, deceased, and/or Charlyne Gellatly, individually, reported it without amendment and submitted a report (No. 2302) thereon.

Mr. WAGNER, from the Committee on Public Lands and Surveys, to which was referred the following bills, reported them each without amendment and submitted reports thereon:

S. 4182. A bill to authorize the city of Chamberlain, S. Dak., to construct, equip, and maintain tourist cabins on American Island, S. Dak., to operate and maintain a tourist camp and certain amusement and recreational facilities on such island,

to make charges in connection therewith, and for other purposes (Rept. No. 2304); and

H. R. 12033. A bill authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, Calif., certain public lands in California; and granting rights-of-way over public lands and reserve lands to the city of Los Angeles in Mono County in the State of California (Rept. No. 2303).

MUNITIONS INDUSTRY—REPORT OF SPECIAL COMMITTEE ON INVESTIGATION OF THE MUNITIONS INDUSTRY (REPT. NO. 944, PT. 5)

Mr. CLARK. By direction of the Special Committee on Investigation of the Munitions Industry, I ask unanimous consent to submit a report on the subject of existing legislation and treaties having to do with the munitions industry.

The VICE PRESIDENT. Without objection, the report will be received and printed.

ENROLLED BILLS PRESENTED

Mrs. CARAWAY, from the Committee on Enrolled Bills, reported that on June 3, 1936, that committee presented to the President of the United States the following enrolled bills:

S. 2243. An act relating to the allocation of radio facilities;

S. 2303. An act to amend the act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, as amended and supplemented;

S. 3043. An act for the relief of the State of Maine;

S. 3452. An act to amend an act entitled "An act authorizing the Secretary of the Interior to arrange with States or Territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes";

S. 3477. An act relating to the jurisdiction of the judge for the northern and middle districts of Alabama;

S. 3885. An act to further extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Garrison, N. Dak.;

S. 3945. An act to extend the times for commencing and completing the construction of certain free highway bridges across the Red River, from Moorhead, Minn., to Fargo, N. Dak.;

S. 3989. An act to provide for the construction and operation of a vessel for use in research work with respect to Pacific Ocean fisheries;

S. 4184. An act to amend the last paragraph, as amended, of the act entitled "An act to refer the claims of the Delaware Indians to the Court of Claims, with the right of appeal to the Supreme Court of the United States", approved February 7, 1925;

S. 4230. An act to amend section 28 of the enabling act for the State of Arizona, approved June 20, 1910;

S. 4298. An act to authorize an appropriation to pay non-Indian claimants whose claims have been extinguished under the act of June 7, 1924, but who have been found entitled to awards under said act as supplemented by the act of May 31, 1936;

S. 4326. An act granting the consent of Congress to the Department of Public Works of Massachusetts to construct, maintain, and operate a free highway bridge across the Connecticut River at or near Northampton, Mass.;

S. 4340. An act to authorize the President to designate an Acting High Commissioner to the Philippine Islands;

S. 4354. An act to authorize the attendance of the Marine Band at the Arkansas Centennial Celebration at Little Rock, Ark., the Texas Centennial at Dallas, Tex., and the National Confederate Reunion at Shreveport, La., between the dates from June 6 to June 16, 1936, inclusive;

S. 4549. An act authorizing the State Highway Board of the State of Georgia to replace, reconstruct, or repair the free highway bridge across the Savannah River at or near the city of Augusta, Ga.; and

S. 4655. An act relative to limitation of shipowners' liability.

BILLS AND JOINT RESOLUTIONS INTRODUCED

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. GUFFEY:

A bill (S. 4750) to amend section 3244 of the Revised Statutes relating to special taxes on wholesale and retail dealers in liquors; to the Committee on the Judiciary.

By Mr. LEWIS:

A bill (S. 4751) to revive certain patents; to the Committee on Patents.

By Mr. McGILL:

A bill (S. 4752) to increase the pension to certain veterans of the Regular Establishment on the rolls March 19, 1933; to the Committee on Pensions.

By Mr. BARBOUR:

A bill (S. 4753) for the relief of Enoch Maholtsky; to the Committee on Military Affairs.

By Mr. BLACK:

A bill (S. 4754) to waive any exclusive jurisdiction over premises of resettlement of rural rehabilitation projects; to authorize payments to States, political subdivisions, and local taxing units in lieu of taxes on such premises; and for other purposes; to the Committee on Education and Labor.

By Mr. SHEPPARD:

A bill (S. 4755) for the relief of Ernest S. Frazier; to the Committee on Military Affairs.

Mr. COPELAND. Mr. President, I ask consent to introduce a joint resolution and request that it be referred to the Committee on Appropriations. It proposes an emergency appropriation for flood control.

The VICE PRESIDENT. Without objection, the joint resolution will be received and referred, as requested by the Senator from New York.

By Mr. COPELAND:

A joint resolution (S. J. Res. 282) making appropriations for works of flood control; to the Committee on Appropriations.

A joint resolution (S. J. Res. 283) directing the Interstate Commerce Commission to make certain investigations concerning air-mail contracts; to the Committee on Interstate Commerce.

HOUSE BILL PLACED ON THE CALENDAR

The bill (H. R. 11072) authorizing the appointment of an additional district judge for the eastern district of Pennsylvania was read twice by its title and ordered to be placed on the calendar.

STUDY OF PUERTO RICAN INDEPENDENCE—AMENDMENT

Mr. WALSH submitted an amendment intended to be proposed by him to the joint resolution (S. J. Res. 270) to provide for the appointment of a committee to study the question of Puerto Rican independence, which was referred to the Committee on Territories and Insular Affairs and ordered to be printed.

FACILITIES FOR NAVIGATION ON COLUMBIA RIVER—AMENDMENT

Mr. O'MAHONEY submitted an amendment intended to be proposed by him to the bill (S. 4695) to authorize completion, maintenance, and operation of certain facilities for navigation on the Columbia River, and for other purposes, which was ordered to lie on the table and to be printed.

POLITICAL AND CIVIL RIGHTS OF WOMEN—PRINTING OF STATEMENT

Mr. PITTMAN submitted the following resolution (S. Res. 319), which was referred to the Committee on Printing:

Resolved, That the manuscript of the statement interpreting the laws of the United States with respect to the political and civil rights of women compared to the political and civil rights of men, compiled for action by the Seventh International Conference of American States, be printed as a Senate document.

INVESTIGATION OF SO-CALLED BOOK TRUST

Mr. McKELLAR submitted the following resolution (S. Res. 320), which was referred to the Committee on the Library:

Whereas it has been openly published and charged for a period of years that the American Book Co. and other textbook concerns, commonly known as the Book Trust, all dealing in textbooks and

school books, throughout the country have been engaged in unlawful practices in obtaining of contracts for furnishing school books through State legislation, and from public officials in States, and that, in the obtention of these contracts to furnish textbooks, it is charged that they have used large sums of money for entertainment and use of various officials; and

Whereas it was published in the newspapers on Saturday, May 5, 1934, that, in a secret N. R. A. code hearing held in Washington, D. C., in April 1934, it was disclosed that $500,000 had been paid out by the textbook manufacturers for "meals" and other gratuities to public officials having to do with the purchase of school textbooks for the children and the youth of our country; and

Whereas these books are sold in interstate commerce: Now, therefore, be it

Resolved, That the Committee on the Library be, and it is hereby, authorized and directed to appoint a subcommittee, which subcommittee is authorized and directed, during the session of the Senate or during the recess of the Congress, to examine into such charges made concerning the book manufacturers selling books in interstate commerce and report its findings to the next Congress.

For the purpose of this resolution the Committee on the Library, or any subcommittee thereof, is authorized to hold hearings, to sit and act at such times and places during the sessions and recesses of the Congress until the final report is submitted, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, and to make such expenditures as it deems advisable.

IMPROVEMENTS BETWEEN SHORE AND BULKHEAD LINES—CONFERENCE REPORT

Mr. COPELAND submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to bill (S. 3071) providing for the placing of improvements on the areas between the shore and bulkhead lines in rivers and harbors, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendment, and agree to the same.

ROYAL S. COPELAND,
DUNCAN U. FLETCHER,
CHAS. L. MCNARY,
Managers on the part of the Senate.

J. J. MANSFIELD,
JOSEPH A. GAVAGAN,
WM. L. FIESINGER,
GEORGE N. SEGER,
ALBERT E. CARTER,
Managers on the part of the House.

The report was agreed to.

AMENDMENT OF COASTWISE LOAD-LINE ACT, 1935—CONFERENCE REPORT

Mr. COPELAND submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 11915) to amend the Coastwise Load Line Act, 1935, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, and 3, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment as follows:

Before the word "tugs" in said amendment insert "steam colliers" and a comma; and the Senate agree to the same.

ROYAL S. COPELAND,
MORRIS SHEPPARD,
WALLACE H. WHITE, JR.,
Managers on the part of the Senate.

S. O. BLAND,
WM. I. SIROVICH,
ROBERT RAMSPECK,
FREDERICK R. LEHLBACH,
RICHARD J. WELCH,
Managers on the part of the House.

Mr. LA FOLLETTE. May I ask the Senator from New York what happened in conference on that bill? Were the amendments which were adopted by the Senate retained by the conferees?

Mr. COPELAND. The House accepted the Senate amendments and asked also that colliers be included.

The VICE PRESIDENT. The question is on agreeing to the conference report.

The report was agreed to.

AMENDMENT OF EMERGENCY FARM MORTGAGE ACT—CONFERENCE REPORT

Mr. GLASS submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 9484) to amend section 36 of the Emergency Farm Mortgage Act of 1933, as amended, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "That the terms of this Act shall not permit additional or new land to be brought into production outside of the present boundaries of any established or reorganized irrigation district"; and the Senate agree to the same.

CARTER GLASS,
FREDERICK STEIWER,
W. G. MCADOO,
ROBERT D. CAREY,
Managers on the part of the Senate.

R. M. KLEBERG,
AUG. H. ANDRESEN,
FRED C. GILCHRIST,
E. M. OWEN,
WALTER M. PIERCE,
Managers on the part of the House.

The report was agreed to.

ADMINISTRATION OF RELIEF MEASURES IN NEVADA

Mr. PITTMAN. Mr. President, I desire to submit a brief statement concerning the administration of relief measures in the State of Nevada, and to include in the RECORD an article published in the New York Sun of May 13, 1936. I shall set forth the facts, which are taken from the official records here in Washington.

The facts disclose that the alleged facts set out in the New York Sun article are absolutely incorrect and misleading. The most charitable construction to place upon the Sun's article is that in the writer's desire to attack President Roosevelt and belittle relief projects he was criminally negligent in ascertaining the facts. His negligence, however, resulted in gross exaggerations, as will be seen from a comparison of the official statement of facts with such alleged facts.

The writer says, "In 1935 the Federal Government spent $1,086 on each relief family in Nevada." The fact is that the Federal Government spent exactly $539.18 on each family. The writer does not take into consideration that Nevada is almost solely dependent upon mining and stock raising. Both mining and stock raising have been at the lowest ebb in history during the last 3 or 4 years, and the price of cattle was the last to feel the revivifying effect of general recovery. Added to this, Nevada, together with several other Western States, has for several years, reaching its peak in 1934, experienced the most disastrous drought in the history of the State.

As to the answer to the question, "Who keeps them out of work, industry or Roosevelt?" Industry refused to put men to work until there was an advanced consumptive demand for its products. Roosevelt put men to work because industry would not put them to work. Roosevelt created the consumptive power of these laborers, thus creating a demand for further production, which is the only cause for the increased production of manufactures from around an average of 20 percent to around an average of 60 percent.

This controversy demonstrates that newspapers in many cases are no longer news papers, but organs of private propaganda of their owners.

I ask unanimous consent that the article to which I have referred and the statistics in answer thereto may be printed in the RECORD at this point.

There being no objection, the newspaper article and the statistics were ordered to be printed in the RECORD, as follows:

[From the New York Sun of May 13, 1936]

WHO KEEPS THEM OUT OF WORK, INDUSTRY OR ROOSEVELT?

Consider the State of Nevada:

State: Nevada.	
Relief cases, November 1933	1,400
Relief cases, year 1935	2,400
W. P. A. workers, 1936	5,894
Federal relief, 1935–36	$12,103,165

Franklin D. Roosevelt has bought $2,118,000,000 worth of (useless) silver and one reason for so doing was to help the State of Nevada and his ally, Senator PITTMAN of that State. The population of Nevada is 94,000. It is a mining and farming State.

In 1929 Nevada had only 123 manufacturing establishments with 2,200 wage earners, whose wages for the year amounted to $3,585,425.

In 1936 Nevada has 5,894 workers on W. P. A.; that is, 1 out of every 6 workers in the State. In 1935 the Federal Government spent $1,086 on each relief family in Nevada. In New York it spent $373 on each family.

Despite the silver purchases and $150,000 in A. A. A. checks, Nevada's relief rolls are four times what they were in November 1933.

In per capita wealth Nevada is the richest State in the Union.

STATE OF NEVADA—OFFICIAL STATISTICS RELATIVE TO FEDERAL RELIEF

Average number of relief cases, State of Nevada, from May 1934 through October 1935	3,678
Under the general relief program for this same period the average relief cost per family was	$539.18
The average relief cost per case was	$425.64
W. P. A. workers for the State of Nevada as of week ending Feb. 29, 1936,[1] was	3,067

[1] This was the peak period of the works program; that is, when the maximum number of workers were employed.

The figure of 5,894 given in the newspaper article as W. P. A. workers for 1936 was the figure released as the total number of workers under the Government works program at this same peak period. It is worth nothing that this includes in all 44 agencies. While it is true that not all of these agencies function in Nevada, some of those which do are: C. C. C. camps, Public Works Administration, public road work through the Highway Department, Resettlement Administration, Rural Electrification Administration, and numerous others under the Department of Agriculture such as Extension Service, Forest Service, Public Roads, and Soil Conservation. There are employed in emergency-conservation work such as C. C. C. camps, wherein most of the men come from other States, and chiefly from Eastern States, 1,072. Other agencies, exclusive of W. P. A. and Emergency Conservation Work, employ 1,755.

Total expenditures to Feb. 29, 1936, under the Emergency Relief Appropriation Act of 1935 were	$4,685,216.44
Of these, the W. P. A. expenditures were	482,995.79
The total Federal Emergency Relief Administration grants from May 1934 through October 1935 were	4,893,232.00

Included in the Federal emergency-relief grants for this period were all incidental programs other than State relief to State residents. Chief among these was $1,010,000 for drought-relief work, $316,000 for cattle buying and processing, $147,000 for rural-rehabilitation program, and $747,000 for transient relief wherein a monthly average of nearly 5,000 other than State residents were cared for in work camps or otherwise.

Allocations and expenditures to the State of Nevada from funds appropriated under the Emergency Relief Appropriation Act of 1935, as of Feb. 29, 1936

Allocations:	
All agencies[1]	$9,502,559.81
W. P. A.	1,381,262.06
Expenditures:	
All agencies[1]	4,685,216.44
W. P. A.	482,995.79

[1] Exclusive of F. E. R. A. and W. P. A.

Federal Emergency Relief Administration grants to the State of Nevada, May 1934 through October 1935

Total, all grants[1]	$4,893,232
General relief	2,109,950
Drought relief	1,010,000

[1] Includes grants made for general and drought-relief purposes.

General relief program for Nevada, year 1935

Average relief cost per family	$539.18
Average relief cost per case	425.64

THE PUBLIC LANDS—ARTICLE BY P. H. SHALLENBERGER

Mr. CAREY. Mr. President, I ask unanimous consent to insert in the CONGRESSIONAL RECORD an article entitled "Our Federal Provinces." This article was published in the Wyoming Stockman-Farmer, and its author, Mr. Percy H. Shallenberger, of Lysite, Wyo., has been a resident of the State for many years and has been engaged in the livestock business. He not only is thoroughly conversant with that industry but with all questions affecting public lands.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OUR FEDERAL PROVINCES

By Percy H. Shallenberger, of Lysite, Wyo.

The cautious framers of our National Government decreed that the only purely Federal area should be the small District of Columbia, with a few square miles of territory to contain a Federal capital city with its necessary congressional and departmental buildings and a Presidential mansion.

Properly set apart from any State jurisdiction, it is the only territory in the United States where the Federal power has hitherto been absolute.

But so amazing has been the growth of Federal authority and departmental assumption of still further sovereignty that an average of 53 percent of the area of 11 Western States is now placed beyond private ownership and taxation.

Prior to the passage of the Taylor Act in June 1934, 30 percent of these States was federally controlled. The total is now increased to 400,000,000 acres, or an average of 53 percent of their total area.

The State of Nevada is more than 80 percent under Federal control.

In this great domain the law of the land is not an act of Congress, but that tyrannous substitute known as the discretion of the Secretary.

In many ways the Congress has lately delegated its right and duty to legislate, but never in a larger degree than in this gift of absolute power to appointive officials.

The Secretaries of the Interior and Agriculture have been made omnipotent dictators in this great domain, yet citizens of these 11 States, irritated by long-range mandates, can cast no votes for or against these department heads.

We still make impassioned claims to being a Republic, yet we here have the spectacle of a group of allegedly sovereign States governed in matters most vital to them by officials in whose selection they have no vote or voice.

President Coolidge put a very plain truth in very plain language when he said: "When authority is located afar off, it is necessarily less well informed, less sympathetic, and less responsive to public requirements. When it is close at hand, it is more likely to be executed, and in the public interest.

"Having a personal contact, it is more humane and more charitable."

These Western States are now forever deprived of sovereignty, settlement, growth, and taxation. Their hope of augmented strength in Congress, as the years might increase their populations and representation, is destroyed.

Several of them have but one Member in the House of Representatives.

By secretarial annulments of the several homestead acts further settlement is made impossible.

Many of these States are in the great region cursed by summer aridity and arctic winters, by alkaline waters and ceaseless winds. Yet allowed possession of but half their area they must endeavor to maintain a State government, courts, roads, schools, and police.

During President Hoover's administration, Ray Lyman Wilbur, as Secretary of the Interior, suggested a new land policy which would transfer to the States the control of the surface rights on the public domain.

Mineral rights were to be reserved to the Federal Government.

President Hoover then appointed a public-lands committee of 22 members to consider the whole matter of conservation and administration of the public domain.

The chairman was Hon. James A. Garfield, of Ohio.

Ex-officio members were the Secretaries of the Interior and Agriculture.

Members nationally known as avowed conservationists were Mary Roberts Rinehart, author; George H. Lorimer, editor, Saturday Evening Post; Col. W. B. Greeley, former Chief of the United States Forest Service; and Hon. Huntley N. Spaulding, former Governor of New Hampshire.

In their report they recommended cession to such States as desired it.

The States interested were to have the long period of 10 years in which to determine their choice.

After these lands had lain on the counter for 10 years, such as were not claimed by the States were to be put under Federal control and subject to lease and fees.

Nothing could have been more fair. It was approved by the Conference of Western Governors at Portland, Oreg., and gratefully accepted throughout the entire West as a complete solution of the problem.

The only opposition voiced was that of Governor Dern, of Utah, now Secretary of War.

Unfortunately, the depression came on with its greater problems, President Hoover went out of office, and the labors of this committee were set at naught.

A bill was pending which bore the name of Representative Colton, of Utah, placing all public lands under Federal control and a fee system, but it also contained the feature of local option.

Later the same bill was introduced by Congressman TAYLOR at departmental request, and it was known as the Taylor bill. It still gave State legislatures the right to refuse or accept its provisions.

Immediately upon taking office, Secretary Ickes, in an article written for the Saturday Evening Post, announced that he would urge the passage of the Taylor bill but would oppose the feature of local option.

He asserted that nothing would satisfy but complete and absolute control, regardless of State and local sentiment or pleaded rights.

He said, "These lands must be removed from the sinister influence of State governments."

These words were considered by many to be offensive and unsupported by facts.

The record of his own Department of the Interior is much more sinister than that of any State government in the West.

There hangs over it the Ballinger land scandals and trial and the later Teapot Dome affair, which left us the sorry picture of Secretary Fall walking out of the oil magnate's office with his $100,000 in a suit case.

There are cavillers in the shadows of the Rockies who feel that the Navy's oil might have been safer in the clutches of some sinister State government than in the conserving pockets of the Interior Department.

A politically important State like Ohio or Massachusetts, with its large electoral vote, need not fear that a Cabinet member or a President will speak of its State government as exerting a sinister influence which must be curbed.

No more would a King of England or a Duke of York use a sentence casting an aspersion on Australia or Canada.

The irritation of the arid States is intensified by the thought that their political insignificance makes them a constant target for bureaucratic artillery.

When President Roosevelt signed the Taylor Act of June 28, 1934, he returned it to Congress with a congratulatory note lauding its provisions.

One sentence in that note was remarkable: "It confers broad powers on the Secretary of the Interior * * * the authority to exercise these powers is carefully safeguarded against impairment by State or local action."

When the President was Governor of New York he said:

"The preservation of this home rule is a fundamental necessity if we are to remain a truly united country."

But now there is apparent determination that home rule or local interference in secretarial management of these vast Federal provinces is not going to be tolerated.

The United States Supreme Court in its A. A. A. decision said that agricultural production was a State and local matter, not to be regulated by Federal laws.

The hog and corn contracts are invalidated for the Middle West, but in the western principality of 11 States production will be restricted by a much simpler and more Hitlerlike method.

At a grazing conference in Casper, Wyo., in January 1935 the director of grazing explained that hog production had been regulated by a very intricate and vexatious system of personal contracts with the individual farmer. He stated that the number of these contracts reached one and a half million and that each one required inspections, appraisals, and enumerations, both frequent and costly.

He then explained that in the public-land States the number of cattle and sheep would be annually regulated by secretarial order, calling for perhaps a 10-percent cut on cattle and a 20-percent cut on sheep. If, at a later date, conditions in the Nation seemed to require it, there might be another czarist ukase calling on each man to make an additional cut.

Stockmen present were asked to rejoice that matters were to be thus simplified.

It is daily made more evident that the hand of the Washington planner is to be heavily laid on the stock growers of the semidesert States.

These lands can produce little but grass, and the only marketable crop has been feeder cattle and sheep, which are shipped to the Corn Belt to be fattened. Such were Mother Nature's plans and orders, but they are to be superseded by Father Planner's superior rules.

A maglet called Cow Country is the organ of the Wyoming Stock Growers' Association. It has lately made the following comment on the new soil-conservation program:

"The greater part of the land area of Wyoming, in common with that of most of the arid Western States, is nonmineral, untimbered, and unfit for farming. Its only product is the grass and other herbage that grows upon it, and so it is fit only for grazing livestock, for which purpose it is admirably adapted. Livestock production is, therefore, the foundation industry which supports our people. Should that industry be destroyed, entire communities would become 'ghost towns', just as the cessation of mining in a small way depopulated former mining towns.

"The suggested plan would create millions of acres of hay and pasture within the farm belt, heavily subsidized by the National Government at the expense of taxpayers. Inevitably there would occur a great increase in livestock production upon these heavily subsidized farms. The surplus of livestock thus created would seriously cripple the entire livestock industry and surely defeat the declared purpose of the administration to promote parity prices unless western stockmen are to be forced to reduce production to compensate for this increase in the farm belt."

The Corn Belter has been accused by the ubiquitous experts of having overproduced, overplowed, overborrowed, and overbought, but it appears that he is to be trusted not to overgraze.

That is a purely western delinquency.

Government agencies, to impress the Nation with the need of their salaried supervision, irritate westerners by their constant assertions that something of value in the way of natural resources has been destroyed in the processes of settlement and development.

The native is ready with quotations from Parkman, Bonneville, our old geographies, and journals of the forty-niners and Mormons to prove that there was nothing to destroy.

There was little grass, less water, and little timber for fuel outside of the almost inaccessible mountains.

The man from Utah, Idaho, or Arizona is proud of what has been accomplished with most meager resources. He does not like to be called an exploiter, a scavanger, a looter of the public domain, or a destroyer of wildlife and scenic beauty.

He may tell you that when he travels to old haunts in Indiana or Illinois he hears at pioneer's picnics much praise for hardy fathers and grandfathers who developed the resources of those States. The picnic orators make much use of the words "development" and "sacrifice."

Everyone seems proud of descent from those who changed a wilderness into fields rich with homes and harvests.

But in the public-land States official Washington calls the same urge and determination "exploitation."

Federal press bureaus are fond of such words as "devastation" and "looting." The rancher on his little desert oasis has outraged the soil conservationists by plowing and irrigating land that never previously knew a forage cover of any sort. Not since Tertiary upheavals spread these grassless lands before the scowling face of the sun.

Sons of Idaho and Arizona fathers are not to be allowed to boast as do those of the Corn Belt.

The mountain-born can only look at the alfalfa fields, the haystacks, the sugar-beet factories, the city parks, and the farm orchards, and as Secretary Wallace framed it, "glory in their shame."

The Secretary of Agriculture paid his initial visit to Wyoming in June 1934. He came by plane from Salt Lake City to Cheyenne. In that flight his opportunities for study of range conditions were certainly limited.

He was then driven in an auto to Douglas, Wyo., where he had been invited to address a cattlemen's convention. This is a distance of about 165 miles. In this speech he said: "You have destroyed your pastures and ranges and appear to glory in your shame."

Washington officials too often come to their western principality with misconceptions and prejudices which even an aerial inspection cannot soften or dissipate.

In February 1935, western stockmen were summoned to Denver to confer on plans for administering the Taylor Act, which, in the previous June, had placed the public lands under Federal control and possible lease.

It was announced that Secretary Ickes would make a hurried trip from Washington to address the gathering.

The day before his arrival a statement was given to the Denver press by F. R. Carpenter, director of grazing, in which he said:

"The Secretary will address the conference tomorrow afternoon, and what he will say will spell happiness or unhappiness for the western stockman."

It is disturbing to a citizen of a great republic to know that an appointive official can hurry across the continent to regions and people with whom he has had no previous contacts and, in a speech of less than an hour, spell happiness or unhappiness for the citizens of 11 States.

Yet Director Carpenter was absolutely correct in his statement.

Such autocratic authority is actually in the Secretary's hands.

He issues rules and regulations for this vast area which have all the force and dignity of law.

If his subordinates offended the citizen, or some ruling seems unfair, the only appeal lies to the honorable Secretary, in whose office the rules were made, and whose appointees have acted under his written instructions.

The State courts are denied jurisdiction, and the cost of recourse to a Federal court is prohibitive.

The Secretary makes the law and then sits as defendant, judge, and jury.

At Washington the novels of Zane Grey and the biography of Wild Bill are still considered essential textbooks for those asked to familiarize themselves with western conditions.

Secretary Ickes is too close to the realities, too thirsty for facts, to give much heed to the high flavors of fiction, yet in his speech at Denver he put in a level teaspoonful of this official vanilla.

He emphasized his Department's determination to end range wars, range monopolies, and strong-arm stuff throughout the West.

He would arouse such shepherds as he found abiding in the fields and announce to them the gospel of "peace on earth."

Only in the story books and the outworn cant of the bureaucrat does the cattle baron and the mutton monarch exist. But to admit that the West is well behaved and well intentioned might lead to a suggestion that expensive surveillance is unnecessary.

It can be said with truth and pride that in no part of the United States of America has the young man, the "little fellow", the penniless and the deserving, found more of opportunity and assistance than in the range livestock country of the far West.

When a faithful herder had no money to buy sheep of his own, his employer gave him a band on shares. If the cowboy was both competent and sober, the cow man took him in as a partner. No one is seeking a monopoly of hardships.

One band of sheep usually brings a man all the grief that nature equipped him to endure.

Politicians in all times and climes have been found marching to the rescue of the little fellow and the under dog.

But it is a saddening truth that laws are usually made by the strong and to benefit the strong. If the weak organize to protect themselves the strong men of the organization seek their own personal profit and the weak go down again.

But to extol the weak and to utter determined vows of immediate assistance is an oratorical device which withstands much repetition and wear.

Too much of what is being done for the farmer and for industry is based on an assumption of ignorance and incapacity in the individual owner.

It smacks of the scientific and intellectual to fault the farmer for all the calamities which befall him, and assert that his great need is intelligent leadership and wise supervision.

The possible leaders and supervisors are in the anteroom discussing salaries.

The unusual dust storms west of the Missouri River are said to be due to the cultivation of lands which should never have been plowed. Six successive years of drought is not a sufficient explanation.

We are told that the wrong crops were planted and the furrows were run to windward when they should have run to leeward.

Assertions are made that erosion by wind and water, coupled with vicious farming practices, will in 50 years make a sterile desert of the great Mississippi Valley. The hunger for Government jobs makes this tide of pessimism and accusation run alarmingly high.

There was a time when the pioneer was applauded for his course, tenacity, and endurance of hardship. But today his every victory over nature is branded as a mistake. He has either overproduced, overexpanded, or overgrazed.

But it is very calming and reassuring to look at the history of agriculture in Europe. Lands in Italy, France, Germany, and England have been ceaselessly tilled by untaught, unscientific farmers since 2,000 years before Christ.

If there be truth in the startling tales of erosion losses and soil depletion, there would not today be one fertile acre left on the continent of Europe.

Yet those fields are more productive today than in the time of Julius Caesar. The soils have been given no analysis or protection by government experts or saviors.

There was no department of agriculture to put the bull in the bulletins.

No parliaments or kings attempted to tell the farmer how to conduct the business to which he was born. They did not fear that the toiler would destroy his own source of livelihood.

They trusted him as an individual to check such dangers as might threaten. They considered erosion, manures, and cultural methods the farmer's own problems, and wisely left him to solve them.

It is government's only duty to see that the farmer gets fair play in the public markets and an income which enables him to care for his lands and his family as his intelligence shall prompt him.

When Hannibal wished to cheer his soldiers, toiling over the Alps to Italy, he told them of the rich wheat fields of Apulia, of the oil and the wine.

That was 2,100 years ago, yet those Apulian fields are today producing better wheat than Hannibal ever saw.

President Roosevelt has lately said that we must not ship our fertility abroad. The most analytical minds of the New Deal appear puzzled over the exact meaning of this statement.

If we are to ship any agricultural products to other lands we are, in a sense, shipping our fertility.

Humans have been eating up the world's fertility for a million years, and yet it is still there.

The Democratic Party has always stood for liberal trade relations with the outside world, as opposed to the Republican stress on a home market.

Every sack of wheat and bale of cotton shipped abroad represents some measure of soil fertility.

All commerce of the world is an exchange of fertility; the fertility of Colorado for that of Japan; the fertility of India for that of Canada; the fertility of the brain for that of the soil.

So it has ever been, yet there is no waste. It is another proof of the indestructibility of matter.

A milk cow returns to the field 85 percent of the fertility she consumes.

Is it the soil that is in danger of being robbed, or is it the tax victims?

A Montana stockman, irritated by accusations of overgrazing made by Federal agents, exclaims:

"The national pay roll is overgrazed. Let us try to check the erosion of public funds. I am told that the grass is badly trampled out around the United States Treasury Building. Those Federal feed lots are getting pretty dusty."

Conservation is a good word and a good doctrine, but a serious menace rears its head when there is more money for those who conserve than for those who operate.

We cannot have more than 50 percent of our people in Federal uniforms, supervising the other half who are doing the work.

It is getting to be a close count as between the overseers and the overalls. This cancer of too much Government will soon eat out the Nation's heart.

Shall we give heed to all this criticism of the world's workers by experts and supervisors, seeking new worlds to admonish, or will we be calm enough to look over the record of human accomplishment in both America and Europe and say again that the average man can be trusted to do his own work well?

Citizens of the Federal provinces have been recently given a remarkable proof of how utterly bureaucratic and executive authority has superseded congressional action and time-honored laws.

This example is in the nullification of the various homestead acts, all of which stand unrepealed by Congress, and so far as legislative action by elected Representatives may affect them, are still in full force and effect.

Yet the Secretary of the Interior says that they have served their purpose, and they now lie on the large but still mounting scrap pile.

The reason given is that the lands left subject to entry are too poor to guarantee the applicant a living.

That has, for 75 years, been considered the entryman's business.

He is on the ground, experienced in agriculture and accustomed to hardships.

Shall we continue to permit him to make the effort or shall we beckon him to the relief rolls as a Government foundling?

The original homestead act, signed by Abraham Lincoln in 1862, was perhaps the most beneficent piece of legislation ever passed by the Congress.

It has given homes to millions. It has passed into private ownership and taxable status almost the entire area of Minnesota, Nebraska, Kansas, Oklahoma, Colorado, the two Dakotas, Washington, and Oregon.

Iowa and Missouri were in process of settlement at the time of its passage, but they owe, perhaps, half of their taxable real estate to the homestead acts.

Yet an honorable Secretary is permitted to nullify it all by one flourish of his potent pen.

The following colloquy brightens the pages of the CONGRESSIONAL RECORD for March 11, 1935. Mr. Poole, of the Interior Department, was testifying before the Public Lands Committee of the House.

"Mr. POOLE. There was a basic reason for the issuance of the Executive order of November 26. It was felt by the President and by the National Resources Board, which has gone into this homestead question very fully, that practically all lands that were economically sufficient to support a family—which is the guiding standard, you might say, or rod of measurement to determine what lands should go into private ownership—had been patented and that the homestead laws had served their purpose."

"Mr. WHITE. That was the opinion of whom, that it had served its purpose?

"Mr. POOLE. The National Resources Board, the Secretary of the Interior, and the President.

"Mr. LEMKE. I certainly am amazed at that statement. I think that is a question for Congress to determine, whether the homestead law has served its purpose or not, not any executive, or even the Chief Executive."

In none of the homestead acts did Congress demand that a man make a living on his tract. Very few did more than exist. The whole history of homesteading is a record of poverty, hardship, and tenacity.

People worked on them, starved on them, and died on them; for in the beginnings of the now populous States of Iowa, Nebraska, and Missouri crops were too often complete failures.

Congress, in all its homestead legislation, never enacted anything but residence and improvements.

Success or failure was the entryman's affair. He had to testify that he was familiar with the tract, its soil, and vegetation; he knew what he was buying and was asking to assume the obvious risks.

Although the Department of the Interior puts commendable emphasis on its regard for the little fellow, its first act, after the passage of the Taylor bill, which made its rule absolute, was to cancel all homestead entries made prior to the passage of the act which were still in such a preliminary status as to be affected by a retroactive Executive order.

There were 500 of these in the State of Wyoming and proportionate numbers in the other public-land States.

The total of canceled entries ran into thousands.

The majority of these entries had been made by the cherished little man, by sons and daughters of pioneers, just reaching their filing age.

These were young men, eager for a start in business, and asking for their first foothold, and daughters who thought to add 640 acres to the scanty pastures of a debt-ridden father.

But no diminution of secretarial acreage was to be permitted.

Presidential ukase and secretarial discretion waved the impoverished thousands back and opened the gates of livelihood and comfortable salaries to more Federal guardians, rangers, graziers, surveyors, and appraisers, who will soon form a helpful army of political rooters and organizers for the home folks on Pennsylvania Avenue.

In several Western States the great host of appointees in these federalized areas have organized themselves into a holding company, comprising groups in green uniforms, some in blue, and others in khaki.

They hold annual meetings to devise ways and means to perpetuate their jobs.

They include as members postal clerks and postmasters, Federal court members, United States district attorney's retainers, the income-tax collectors and instructors, the Biological Survey, United States forest supervisors and rangers, and the personnel of the Bureau of Mines, which controls production of ore and oil.

Now will come the grazing administration, with its superintendents, surveyors, appraisers, and graziers.

It will take larger buildings at Helena, Boise, Cheyenne, and Salt Lake to house Federal administration than is now required for State officials and legislatures.

New Federal buildings will overshadow the State capitols. The young man seeking secure position and ample salary will know on which side of the street to make his bow and solicitation.

Such organization of strangers, anchored to good positions, create much ill will in the minds of the native born on whose backs alone is laid the burden of taxation.

Alien rule has always been detested.

The southerner hated the carpetbagger sent at the close of the Civil War to reconstruct him.

The Irish came to hate the name and uniform of England's black-and-tan constabulary. The German people of the Saar Valley voted 90 percent to lower the French flag which had been floating over them.

As these numerous Federal agencies are granted augmented personnels and broader powers there will be an increase of sectional bitterness.

Conflicts between sheepmen and cattlemen belong to a forgotten day. They belong to the movies and the pages of lurid fiction.

But strife between western people and bureaucratic overseers will be an enduring animosity until that day when high-powered Federal control gives place to those equal rights and that complete sovereignty promised in the deeds of cession to all new States upon their admission to the Union.

OPINION OF SUPREME COURT ON MINIMUM-WAGE LAW

Mr. WAGNER. Mr. President, I ask unanimous consent to have printed in the RECORD the majority opinion of the Supreme Court holding the New York minimum-wage law unconstitutional; also the dissenting opinion delivered by Mr. Chief Justice Hughes and the minority opinion delivered by Mr. Justice Stone. With those opinions I ask also to have inserted in the RECORD editorial comments upon the decision which were published in the New York Times, in the Washington Post, and in the Washington Daily News.

There being no objection, the opinion and editorials were ordered to be printed in the RECORD, as follows:

MAJORITY OPINION OF THE SUPREME COURT HOLDING WAGE LAW UNCONSTITUTIONAL

Supreme Court of the United States. No. 838, October term, 1935

Frederick L. Moorehead, as warden of the city prison of the Borough of Brooklyn, petitioner, v. *People ex rel. Joseph Tipaldo.* On writ of certiorari to the Supreme Court of the State of New York.

Mr. Justice Butler delivered the opinion of the Court.

This is a habeas corpus case originating in the Supreme Court of New York. Relator was indicted in the county court of Kings County and sent to jail to await trial upon the charge that as manager of a laundry he failed to obey the mandatory order of the State industrial commissioner prescribing minimum wages for women employees.

The relator's petition for the writ avers that the statute, ch. 584 of the Laws of 1933 (Cons. Law, ch. 31, art. 19), under which the commissioner made the order, insofar as it purports to authorize him to fix women's wages, is repugnant to the due-process clause, article I, section 6, of the constitution of the State, and the due-process clause of the fourteenth amendment to the Constitution of the United States.

FEDERAL STATUTE CONDEMNED

The application for the writ is grounded upon the claim that the State statute is substantially identical with the minimum-wage law enacted by Congress for the District of Columbia (40 Stat. 960) which in 1923 was condemned by this Court as repugnant to the due-process clause of the fifth amendment (*Adkins* v. *Children's Hospital*, 261 U. S. 525).

The warden's return, without disclosing the commissioner's order, the prescribed wages, the findings essential to his jurisdiction to establish them, things done in pursuance of the act, or the allegations of the indictment, merely shows that under an order of the county court he was detaining relator for trial. The case was submitted on petition and return. The court dismissed the writ (156 Misc. 522).

Relator took the case to the Court of Appeals. It held the act repugnant to the due-process clauses of the State and Federal Constitutions (270 N. Y. 233). The remittitur directed that the order appealed from be reversed, the writ sustained, and the prisoner discharged; it certified that the Federal constitutional question was presented and necessarily passed on. The Supreme Court entered judgment as directed. We granted a writ of certiorari.

The act extends to women and minors in any "occupation", which "shall mean an industry, trade, or business, or branch thereof, or class of work therein in which women or minors are gainfully employed, but shall not include domestic service in the home of the employer or labor on a farm" (sec. 551 (6)).

NOT EMERGENCY LAW

It is not an emergency law. It does not regulate hours or any conditions affecting safety or protection of employees. It relates only to wages of adult women and minors.

As the record is barren of details in respect of investigation, findings, amounts being paid women workers in laundries or elsewhere prior to the order, or of things done to ascertain the minimum prescribed, we must take it as granted that, if the State is permitted, as against employers and their women employees, to establish and enforce minimum wages, that power has been validly exerted.

It is to be assumed that the rates have been fairly made in accordance with the procedure prescribed by the act and in full compliance with the defined standards.

If, consistently with the due-process clause, the State may not enter upon regulation of the sort undertaken by challenged enactment, then plainly it cannot by diligence to insure the establishment of just minima create power to enter that field (cf. *St. Joseph Stock Yards Co.* v. *United States*, U. S. —, — (pamphlet, p. 6); *Baltimore & Ohio R. R.* v. *United States*, — U. S. —, — (pamphlet, pp. 13–14)).

COURT RESTRICTS ITS ACTS

The Adkins case, unless distinguishable, requires affirmance of the judgment below. The petition for the writ sought review upon the ground that this case is distinguishable from that one. No application has been made for reconsideration of the constitutional question there decided.

The validity of the principles upon which that decision rests is not challenged. This Court confines itself to the ground upon which the writ was asked or granted (*Alice State Bank* v. *Houston Pasture Co.*, 247 U. S. 240, 242; *Clark* v. *Willard*, 294 U. S. 211, 216). Here the review granted was no broader than that sought by the petitioner (*Johnson* v. *Manhattan Railway Co.*, 189 U. S. 479, 494).

He is not entitled and does not ask to be heard upon the question whether the Adkins case should be overruled. He maintains that it may be distinguished on the ground that the statutes are vitally dissimilar.

The District of Columbia Act provided for a board to ascertain and declare "standards of minimum wages" for women in any occupation and what wages were "inadequate to supply the necessary cost of living to any such women workers to maintain them in good health and to protect their morals" (sec. 9).

Violations were punishable by fine and imprisonment (sec. 18). The declared purposes were to protect women from conditions detrimental to their health and morals resulting from wages inadequate to maintain decent standards of living (sec. 23).

NEW YORK ACT QUOTED

The New York act declares it to be against public policy for any employer to employ any woman at an oppressive and unreasonable wage (sec. 552), defined as one which is "both less than the fair and reasonable value of the services rendered and less than sufficient to meet the minimum cost of living necessary for health" (sec. 551 (7)).

"A fair wage" is one "fairly and reasonably commensurate with the value of the service or class of service rendered" (sec. 551 (8)). If the commissioner is of opinion that any substantial number of women in any occupation are receiving oppressive and unreasonable wages, he shall appoint a wage board to report upon the establishment of minimum fair-wage rates (sec. 554). After investigation the board shall submit a report, including its recommendations as to minimum fair-wage standards (sec. 555).

And for administrative guidance, the act declares: "In establishing a minimum fair wage for any service or class of service under this article the commissioner and the wage board, without being bound by any technical rules of evidence or procedure, (1) may take into account all relevant circumstances affecting the value of the service or class of service rendered, and (2) may be guided by like considerations as would guide a court in a suit for the reasonable value of services rendered where services are rendered at the request of an employer without contract as to the amount of the wage to be paid, and (3) may consider the wages paid in the State for work of like or comparable character by employers who voluntarily maintain minimum fair-wage standards" (sec. 551 (8)).

ACTS ARE COMPARED

If the commissioner accepts the report, he shall publish it, and a public hearing must be held (sec. 556). If, after the hearing, he approves the report, he "shall make a directory order which shall define minimum fair-wage rates" (sec. 557).

Upon hearing and finding of disobedience, the commissioner may publish the name of an employer as having failed to observe the directory order (sec. 559). If, after a directory order has been in effect for 9 months, the commissioner is of opinion that persistent nonobservance is a threat to the maintenance of the prescribed standards, he may, after hearing, make the order mandatory (sec. 560). Violation of a mandatory order is a misdemeanor, punishable by fine, imprisonment, or both (sec. 565 (2)).

Thus it appears: The minimum wage provided for in the District act was one not less than adequate "to supply the necessary cost of living to any such women workers to maintain them in good health and to protect their morals."

The New York act defines an oppressive and unreasonable wage as containing two elements. The one first mentioned is "less than the fair and reasonable value of the services rendered." The other is "less than sufficient to meet the minimum cost of living necessary for health."

POWER BASED ON FINDING

The basis last mentioned is not to be distinguished from the living wage defined in the District act. The exertion of the granted power to prescribe minimum wages is by the State act conditioned upon a finding by the commissioner or other administrative agency that a substantial number of women in any occupation are receiving wages that are oppressive and unreasonable,

i. e., less than value of the service and less than a living wage. That finding is essential to jurisdiction of the commissioner.

In the State court there was controversy between the parties as to whether the "minimum fair-wage rates" are required to be established solely upon value of service or upon that value and the living wage. Against the contention of the attorney general, the court of appeals held that the minimum wage must be based on both elements.

Speaking through its chief judge, the court said: "We find no material difference between the act of Congress and this act of the New York State Legislature. The act of Congress, it is said, was to protect women from conditions resulting from wages which were inadequate to maintain decent standards of living."

The opinion then quotes from the brief of the attorney general: "The purpose of the statute in the Adkins case was to guarantee a wage based solely upon the necessities of the workers. The statute did not provide for the wages to have any relationship to earning power; was applicable to all vocations and not to the character of the work."

LAW SET WAGE STANDARD

As contrasted with this statute, the New York minimum-wage law provides a definite standard for wages paid. It provides that the worker is to be paid at least the value of the services rendered. The opinion continues:

"This is a difference in phraseology and not in principle. The New York act, as above stated, prohibits an oppressive and unreasonable wage, which means both less than the fair and reasonable value of the services rendered and less than sufficient to meet the minimum cost of living necessary for health.

"The act of Congress had one standard, the living wage; this State act has added another, reasonable value. The minimum wage must include both.

"What was vague before has not been made any clearer. One of the elements, therefore, in fixing the fair wage is the very matter which was the basis of the congressional act. Forcing the payment of wages at a reasonable value does not make inapplicable the principle and ruling of the Adkins case. The distinctions between this case and the Adkins case are differences in details, methods, and time; the exercise of legislative power to fix wages in any employment is the same."

The petitioner does not suggest and reasonably it cannot be thought that, so far as concerns repugnancy to the due-process clause, there is any difference between the minimum-wage law for the District of Columbia and the clause of the New York act, "less than sufficient to meet the minimum cost of living necessary for health."

Petitioner does not claim that element was validated by including with it the other ingredient, "less than the fair and reasonable value of the services rendered."

BACKS STATE COURT

His brief repeats the State court's declaration: "The act of Congress had one standard, the living wage; this State act has added another, reasonable value. *The minimum wage must include both.* What was vague before has not been made any clearer. *"One of the elements, therefore, in fixing the fair wage is the very matter which was the basis of the congressional act."*

Then he says: "The italicized lines carry the court's misconception of the statute. It is a basic conception. From it flows the erroneous conclusion of the court of appeals that there exists no material difference between the two statutes.

"Those two factors do not enter into the determination of the minimum 'fair wage' as in the statute defined nor as determined in this case. The only basis for evaluating and arriving at the 'fair minimum wage' is the fair value of the services rendered."

There is no blinking the fact that the State court construed the prescribed standard to include cost of living or that petitioner here refuses to accept that construction. Petitioner's contention that the court of appeals misconstrued the act cannot be entertained. This Court is without power to put a different construction upon the State enactment from that adopted by the highest court of the State.

ACCEPTED AS LEGISLATURE'S AIM

We are not at liberty to consider petitioner's argument based on the construction repudiated by that court. The meaning of the statute as fixed by its decision must be accepted here as if the meaning had been specifically expressed in the enactment (*Knights of Pythias* v. *Meyer*, 265 U. S. 30, 32).

Exclusive authority to enact carries with it final authority to say what the measure means (*Jones* v. *Prairie Oil Co.*, 273 U. S. 195, 200).

The standard of "minimum fair-wage rates" for women workers to be prescribed must be considered as if both elements, value of service and living wage, were embodied in the statutory definition itself (*International Harvester Co.* v. *Kentucky*, 234 U. S. 216, 220).

As our construction of an act of Congress must be deemed by State courts to be the law of the United States, so this New York act, as construed by her court of last resort, must here be taken to express the intention and purpose of her lawmakers (*Green* v. *Lessee of Neal*, 6 Pet. 291, 295–298).

The State court rightly held that the Adkins case controls this one and requires that relator be discharged upon the ground that the legislation under which he was indicted and imprisoned is repugnant to the due-process clause of the fourteenth amendment.

The general statement in the New York act of the fields of labor it includes, taken in connection with the work not covered, indicates legislative intention to reach nearly all private employers of women. The act does not extend to men. It does extend to boys and girls under the age of 21 years, but there is here involved no question as to its validity in respect of wages to be prescribed for them.

TWO QUESTIONS RAISED

Relator's petition for the writ shows that the charge against him is that as manager of a laundry he "disobeyed a mandatory order prescribing certain minimum wages for certain adult women employees of the said laundry." The rights of no other class of workers are here involved.

Upon the face of the act the question arises whether the State may impose upon the employers State-made minimum-wage rates for all competent experienced women workers whom they may have in their service.

That question involves another one. It is: Whether the State has power similarly to subject to State-made wages all adult women employed in trade, industry, or business other than house and farm work. These were the questions decided in the Adkins case.

So far at least as concerns the validity of the enactment under consideration, the restraint imposed by the due-process clause of the fourteenth amendment upon legislative power of the State is the same as that imposed by the corresponding provision of the fifth amendment upon the legislative power of the United States.

EQUAL BARGAINING DEFENDED

This Court's opinion shows (pp. 545, 546): The right to make contracts about one's affairs is a part of the liberty protected by the due-process clause. Within this liberty are provisions of contracts between employer and employee fixing the wages to be paid.

In making contracts of employment, generally speaking, the parties have equal right to obtain from each other the best terms they can by private bargaining. Legislative abridgement of that freedom can only be justified by the existence of exceptional circumstances. Freedom of contract is the general rule and restraint the exception.

This Court has found not repugnant to the due-process clause statutes fixing rates and charges to be exacted by business impressed with a public interest, relating to contracts for the performance of public work, prescribing the character, methods, and time of payment of wages, fixing hours of labor.

Physical differences between men and women must be recognized in proper cases, and legislation fixing hours or conditions of work may properly take them into account, but (p. 553) "we cannot accept the doctrine that women of mature age, sui juris, require or may be subjected to restrictions upon their liberty of contract which could not lawfully be imposed in the case of men under similar circumstances.

HEALTH ISSUE RAISED

"To do so would be to ignore all the implications to be drawn from the present-day trend of legislation, as well as that of common thought and usage, by which woman is accorded emancipation from the old doctrine that she must be given special protection or be subjected to special restraint in her contractual and civil relationships. * * * (p. 554).

"Enough has been said to show that the authority to fix hours of labor cannot be exercised except in respect of those occupations where work of long-continued duration is detrimental to health.

"This Court has been careful, in every case where the question has been raised, to place its decision upon this limited authority of the legislature to regulate hours of labor and to disclaim any purpose to uphold the legislation as fixing wages, thus recognizing an essential difference between the two. It seems plain that these decisions afford no real support for any form of law establishing minimum wages."

The decision and the reasoning upon which it rests clearly show that the State is without power by any form of legislation to prohibit, change, or nullify contracts between employers and adult women workers as to the amount of wages to be paid.

OBJECTIONS ARE CITED

Then the opinion emphasizes objections specifically applicable to the requirement that the minimum wages to be prescribed under the District act shall be adequate "to supply the necessary cost of living to any such women workers to maintain them in good health and to protect their morals."

Some of them were: The price fixed by the board need have no relation to earning powers, hours, or place or character of work; it is based wholly on opinion of the board as to what amount will be necessary to comply with the standard; it applies to every occupation without regard to the kind of work; the standard is so vague as to be impossible of practical application; the act takes account of the necessities of only the employee; to the extent that the sum fixed exceeds fair value of service rendered, it amounts to a compulsory exaction for the support of a partially indigent person for whose condition there rests upon the employer no peculiar responsibility; the statute exacts from the employer an arbitrary payment for a purpose and upon a basis having no causal connection with his business or the contract or the work the employee engages to do; the declared basis is not the value of the service rendered but the extraneous circumstance that the employee needs to get a prescribed sum of money to insure her subsistence, health, and morals.

The Court said: "The ethical right of every worker, man or woman, to have a living wage may be conceded. The fallacy of the proposed method of attaining it is that it assumes that every

employer is bound at all events to furnish it. The moral requirement, implicit in every contract of employment, viz, that the amount to be paid and the service to be rendered shall bear to each other some relation of just equivalence, is completely ignored."

EMPLOYEE ALONE CONSIDERED

The necessities of the employee are alone considered, and these arise outside of the employment and are as great in one occupation as in another.

Illustrating particular constitutional difficulties encountered by the enactment then before us, the opinion proceeds (p. 559):

"Should a statute undertake to vest in a commission power to determine the quantity of food necessary for individual support and require the shopkeeper, if he sell to the individual at all, to furnish that quantity at not more than a fixed maximum, it would undoubtedly fall before the constitutional test. The fallacy of any argument in support of the validity of such a statute would be quickly exposed.

"The argument in support of that now being considered is equally fallacious, though the weakness of it may not be so plain. A statute requiring an employer to pay in money, to pay at prescribed and regular intervals, to pay the value of the services rendered, even to pay with fair relation to the extent of the benefit obtained from the service, would be understandable.

"But a statute which prescribes payment without regard to any of these things, and solely with relation to circumstances apart from the contract of employment, the business affected by it, and the work done under it, is so clearly the product of a naked, arbitrary exercise of power that it cannot be allowed to stand under the Constitution of the United States."

PETITIONER'S CLAIM REJECTED

Petitioner does not attempt to support the act as construed by the State court. His claim is that it is to be tested here as if it did not include the cost of living and as if value of service was the sole standard.

Plainly, that position is untenable. If the State has power to single out for regulation the amount of wages to be paid women, the value of their services would be a material consideration. But that fact has no relevance upon the question whether the State has any such power.

And utterly without significance upon the question of power is the suggestion that the New York prescribed standard includes value of service with cost of living, whereas the District of Columbia standard was based upon the latter alone.

As shown above, the dominant issue in the Adkins case was whether Congress had power to establish minimum wages for adult women workers in the District of Columbia. The opinion directly answers in the negative. The ruling that defects in the prescribed standard stamped that act as arbitrary and invalid was an additional group of subordinate consequence.

The dissenting opinion of Mr. Chief Justice Taft (in which Mr. Justice Sanford concurred) assumes (p. 564) "That the conclusion in this (Adkins) case rests on the distinction between a minimum of wages and a maximum of hours."

That is the only point he discussed; he did not refer to the validity of the standard prescribed by the act.

HOLMES FINDING QUOTED

The dissenting opinion of Mr. Justice Holmes begins (p. 567): "The question in this case is the broad one whether Congress can establish minimum rates of wages for women in the District of Columbia with due provision for special circumstances, or whether we must say that Congress has no power to meddle with the matter at all."

And after assuming that women would not be employed at the wages fixed unless they were earned or unless the employer could pay them, the opinion says (p. 570): "But the group on which the law is held to fail is fundamental and therefore it is unnecessary to consider matters of detail."

If the decision of the Court turned upon the question of the validity of the particular standard, that question could not have been ignored by the Justices who were in favor of upholding the act. Clearly they understood, and rightly, that by the opinion of the Court it was held that Congress was without power to deal with the subject at all.

To distinguish this from the Adkins case, petitioner refers to changes in conditions that have come since that decision, cites great increase during recent years in the number of women wage earners and invokes the first section of the act, called "factual background."

ACT A PERMANENT POLICY

The act is not to meet an emergency; it discloses a permanent policy; the increasing number of women workers suggests that more and more they are getting and holding jobs that otherwise would belong to men. The "factual background" must be read in the light of the circumstances attending its enactment.

The New York Legislature passed two minimum-wage measures and contemporaneously submitted them to the Governor. One was approved; it is the act now before us. The other was vetoed and did not become law.

They contained the same definitions of oppressive wage and fair wage and in general provided the same machinery and procedure culminating in fixing minimum wages by directory orders. The one vetoed was for an emergency; it extended to men as well as to women employees; it did not provide for the enforcement of wages by mandatory orders.

It is significant that their "factual backgrounds" are much alike. They are indicated in the margin. (2) These legislative declarations, in form of findings or recitals of fact, serve well to illustrate why any measure that deprives employers and adult women of freedom to agree upon wages, leaving employers and men employees free so to do, is necessarily arbitrary.

MEN EQUALLY SUBJECT TO EVILS

Much, if not all, that in them is said in justification of the regulations that the act imposes in respect of women's wages apply with equal force in support of the same regulation of men's wages. While men are left free to fix their wages by agreement with employers, it would be fanciful to suppose that the regulation of women's wages would be useful to prevent or lessen the evils listed in the first section of the act.

Men in need of work are as likely as women to accept the low wages offered by unscrupulous employers. Men in greater numbers than women support themselves and dependents and because of need will work for whatever wages they can get and that without regard to the value of the service and even though the pay is less than minima prescribed in accordance with this act.

It is plain that, under circumstances such as those portrayed in the "factual background", prescribing of minimum wages for women alone would unreasonably restrain them in competition with men and tend arbitrarily to deprive them of employment and a fair chance to find work.

This Court, on the authority of the Adkins case and with the acquiescence of all the Justices who dissented from the decision, (3) held repugnant to the due-process clause of the fourteenth amendment statutes of Arizona and Arkansas (4), respectively, fixing minimum wages for women (*Murphy* v. *Sardell*, 269 U. S. 530; *Donham* v. *West-Nelson Mfg. Co.*, 273 U. S. 657). We have adhered to the principle there applied and cited it as a guide in other cases (*Meyer* v. *Nebraska*, 262 U. S. 390, 399; *Wolff Co.* v. *Industrial Court*, 262 U. S. 522, 534; *Ribnik* v. *McBride*, 277 U. S. 350, 356; see *Near* v. *Minnesota*, 283 U. S. 697, 707–708). States having similar enactments have construed it to prevent the fixing of wages for adult women (*Topeka Laundry Co.* v. *Court of Industrial Relations*, 119 Kan. 12; *Stevenson* v. *St. Clair*, 161 Minn. 444; see *Folding Furniture Works* v. *Industrial Commission*, 300 Fed. 991; *People* v. *Successors of Laurnaga & Co.*, 32 P. R. 766).

ADKINS RULING DECLARED SOUND

The New York court's decision conforms to ours in the Adkins case, and the later rulings that we have made on the authority of that case. That decision was deliberately made upon careful consideration of the oral arguments and briefs of the respective parties and also of briefs submitted on behalf of States and others as amici curiae. In the Arizona case the Attorney General sought to distinguish the District of Columbia Act from the legislation then before us and insisted that the latter was a valid exertion of the police power of the State.

Counsel for the California commission submitted a brief amicus curiae in which he elaborately argued that our decision in the Adkins case was erroneous and ought to be overruled. In the Arkansas case the State officers, appellants there, by painstaking and thorough brief presented arguments in favor of the same contention.

But this court, after thoughful attention to all that was suggested against that decision, adhered to it as sound. And in each case, being clearly of the opinion that no discussion was required to show that, having regard to the principles applied in the Adkins case, the State legislation fixing wages for women was repugnant to the due-process clause of the fourteenth amendment, we so held, and upon the authority of that case affirmed per curiam the decree enjoining its enforcement. It is equally plain that the judgment in the case now before us must also be affirmed.

BRIEFS IN CASE LISTED

(1) Briefs amici curiae in support of the application were filed by the city of New York and the State of Illinois. Briefs on the merits supporting the New York act were filed by the State of Ohio and by the States of Conecticut, Illinois, Massachusetts, New Hampshire, New Jersey, and Rhode Island. Briefs for affirmance were filed by the New York State Hotel Association, National Woman's Party, National Association of Women Lawyers, et al.

(2) Omitting the words in brackets, the following is the factual background in the first section of the act before us. Adding the words in brackets and omitting those in italics, there is indicated the background in the bill that was not approved.

"The employment of [men and] women and minors in trade and industry in the State of New York at wages unreasonably low and not fairly commensurate with the value of the services rendered is a matter of grave and vital public concern. Many [men and] women and minors employed for gain in the State of New York are not as a class upon a level of equality in bargaining with their employers in regard to minimum fair-wage standards, and 'freedom of contract' as applied to their relations with their employers is illusory.

"Since a very large percentage of such workers are obliged from their week-to-week wages to support themselves and others who are dependent upon them in whole or in part they are, by reason of their necessitous circumstances, forced to accept whatever wages are offered them.

WAGES FIXED BY CHANCE

"Judged by any reasonable standard, wages are in many cases fixed by chance and caprice and the wages accepted are often found to bear no relation to the service rendered. Women and minors employed for gain are peculiarly subject to the overreaching of inefficient, harsh, or ignorant employers and under unregulated competition where no adequate machinery exists for the effective regulation and maintenance of minimum fair-wage standards, [and] the standards such as exist to be set by the least conscionable employers.

"In the absence of any effective minimum fair-wage rates for women and minors, the constant lowering of wages by unscrupulous employers constitutes a serious form of unfair competition against other employers, reduces the purchasing power of the workers [a large proportion of the population of the State], and threatens the stability of industry. The evils of oppressive, unreasonable, and unfair wages as they affect women and minors employed in the State of New York are such as to render imperative the exercise of the police power of the State for the protection of industry and of the [men and] women and minors employed therein and of the public interest of the community at large in their health and well-being and in the prevention of the deterioration of the race. In the considered judgment of the legislature this article is constitutional."

ARIZONA ACT IS QUOTED

(3) Mr. Justice Brandeis took no part in the consideration of the Adkins case. He noted dissent without more in the Arizona case and Arkansas case.

(4) The Arizona act declared: "No person * * * shall employ any female in any store, office, shop, restaurant, dining room, hotel, rooming house, laundry, or manufacturing establishment at a weekly wage of less than $16 per week; a lesser amount being hereby declared inadequate to supply the necessary cost of living to any such female, to maintain her health, and to provide her with the common necessities of life" (Laws of Arizona, 1923, c. 3, sec. 1).

The Arkansas act declared: "It shall be unlawful for any employer * * * to pay any female worker in any establishment or occupation less than the wage specified in this section, to wit, except as hereinafter provided: 'All female workers who have had 6 months' practicable experience in any line of industry or labor shall be paid not less than $1.25 per day. The minimum wage for inexperienced female workers who have not had 6 months' experience in any line of industry or labor shall be paid not less than $1 per day'" (sec. 7108, Crawford & Moses Digest).

MINORITY OPINION OF JUSTICE STONE IN NEW YORK MINIMUM WAGE CASE

Mr. Justice Stone:

While I agree with all that the Chief Justice has said, I would not make the differences between the present statute and that involved in the Adkins case the sole basis of decision. I attach little importance to the fact that the earlier statute was aimed only at a starvation wage and that the present one does not prohibit such a wage unless it is also less than the reasonable value of the service. Since neither statute compels employment at any wage, I do not assume that employers in one case, more than in the other, would pay the minimum wage if the service were worth less.

The vague and general pronouncement of the fourteenth amendment against deprivation of liberty without due process of law is a limitation of legislative power, not a formula for its exercise. It does not purport to say in what particular manner that power shall be exerted. It makes no fine-spun distinctions between methods which the legislature may and may not choose to solve a pressing problem of government.

It is plain, too, that unless the language of the amendment and the decisions of this court are to be ignored, the liberty which the amendment protects is not freedom from restraint of all law or of any law which reasonable men may think an appropriate means for dealing with any of those matters of public concern with which it is the business of government to deal.

There is grim irony in speaking of the freedom of contract of those who, because of their economic necessities, give their service for less than is needful to keep body and soul together. But if this is freedom of contract, no one has ever denied that it is freedom which may be restrained, notwithstanding the fourteenth amendment, by a statute passed in the public interest.

PUBLIC PURPOSE ACTS SUSTAINED

In many cases this court has sustained the power of legislatures to prohibit or restrict the terms of a contract, including the price term, in order to accomplish what the legislative body may reasonably consider a public purpose. They include cases which neither have been overruled nor discredited in which the sole basis of regulation was the fact that circumstances, beyond the control of the parties, had so seriously curtailed the regulative power of competition as to place buyers or sellers at a disadvantage in the bargaining struggle, such that a legislature might reasonably have contemplated serious consequences to the community as a whole and have sought to avoid them by regulations of the terms of the contract. (*Munn* v. *Illinois*, 94 U. S. 113; *Brass* v. *Stoeser*, 153 U. S. 391; *German Alliance Insurance Co.* v. *Kansas*, 233 U. S. 389, 409; *Terminal Taxicab Co.* v. *District of Columbia*, 241 U. S. 252; *Block* v *Hirsch*, 256 U. S. 135; *Marcus Brown Co.* v. *Feldman*, 256 U. S. 170; *Levy Leasing Co.* v. *Siegel*, 258 U. S. 242; *Nebbia* v. *New York*, 291 U. S. 502; see also *Frisbie* v. *United States*, 157 U. S. 160; *Knoxville Iron Co.* v. *Harbison*, 183 U. S. 13; *McLean* v. *Arkansas*, 211 U. S. 539; *Mutual Loan Co.* v. *Martell*, 222 U. S. 225.)

No one doubts that the presence in the community of a large number of those compelled by economic necessity to accept a wage less than is needful for subsistence is a matter of grave public concern, the more so when, as has been demonstrated here, it tends to produce ill health, immorality, and deterioration of the race.

NOT AN UNREASONABLE REMEDY

The fact that at one time or another Congress and the legislatures of 17 States, and the legislative bodies of 21 foreign countries, including Great Britain and its 4 Commonwealths, have found wage regulation is an appropriate corrective for serious social and economic maladjustments growing out of inequality in bargaining power, precludes, for me, any assumption that it is a remedy beyond the bounds of reason.

It is difficult to imagine any grounds, other than our own personal economic predilections, for saying that the contract of employment is any the less an appropriate subject of legislation than are scores of others, in dealing with which this Court has held that legislatures may curtail individual freedom in the public interest.

If it is a subject upon which there is power to legislate at all, the fourteenth amendment makes no distinction between the methods by which legislatures may deal with it any more than it proscribes the regulation of one term of a bargain more than another if it is properly the subject of regulation. No one has yet attempted to say upon what basis of history, principles of government, law or logic, it is within due process to regulate the hours and conditions of labor of women, see *Muller v. Oregon* (208 U. S. 412); *Riley* v. *Massachusetts* (232 U. S. 671, 679); *Hawley* v. *Walker* (232 U. S. 718); *Miller* v. *Wilson* (236 U. S. 373); *Bosley* v. *McLaughlin* (236 U. S. 385); and of men, *Bunting* v. *Oregon* (243 U. S. 426), and the time and manner of payment of the wage, *McLean* v. *Arkansas*, supra; *Knoxville Iron Co.* v. *Harbison*, supra; *Patterson* v. *Bark Eudora* (190 U. S. 169); Compare *New York Central Railroad Co.* v. *White* (243 U. S. 188); *Arizona Employers Liability cases* (250 U. S. 400), but that regulation of the amount of the wage passes beyond the constitutional limitation; or to say upon what theory the amount of a wage is any the less the subject of regulation in the public interest than that of insurance premiums, *German Alliance Insurance Co.* v. *Kansas*, supra, or of the commissions of insurance brokers, *O'Gorman & Young, Inc.*, v. *Hartford Fire Insurance Co.* (282 U. S. 251), or of the charges of grain elevators, *Munn* v. *Illinois*, supra; *Brass* v. *Stoeser*, supra, or of the price which the farmer receives for his milk, or which the wage earner pays for it, *Nebbia* v. *New York*, supra.

OTHER DECISIONS CITED

These considerations were developed at length in *Tyson* v. *Banton* (273 U. S. 418, 447, et seq.) and in *Ribnik* v. *McBride* (277 U. S. 350, 359, et seq.), and need not be further elaborated now. It is true that the Court rejected them there; but it later accepted and applied them as the basis of decision in *O'Gorman & Young, Inc.*, v. *Hartford Fire Insurance Co.*, supra; *Nebbia* v. *New York*, supra; *Hegeman Firms Corporation* v. *Baldwin* (293 U. S. 163); *Bordens Farm Products Co.* v. *Ten Eyck* (no. 597), decided February 10, 1936. Both precedent, and, what is more important, reason requires their acceptance now. See *Burnet* v. *Coronado Oil & Gas Co.* (285 U. S. 393, 405). In upholding State minimum price regulation in the milk industry, in *Nebbia* v. *New York*, supra, the Court declared, page 537:

"So far as the requirement of due process is concerned, and in the absence of other constitutional restriction, a State is free to adopt whatever economic policy may reasonably be deemed to promote public welfare, and to enforce that policy by legislation adapted to its purpose. The courts are without authority either to declare such policy or, when it is declared by the legislature, to override it. If the laws passed are seen to have a reasonable relation to a proper legislative purpose, and are neither arbitrary nor discriminatory, the requirements of due process are satisfied, and judicial determination to that effect renders a court functus officio."

SHOULD CONTROL PRESENT CASE

That declaration and decision should control the present case. They are irreconcilable with the decision and most that was said in the Adkins case. They have left the court free of its restriction as a precedent, and free to declare that the choice of the particular form of regulation by which grave economic maladjustments are to be remedied is for legislatures and not for the courts.

In the years which have intervened since the Adkins case we have had opportunity to learn that a wage is not always the resultant of free bargaining between employers and employees; that it may be one forced upon employees by their economic necessities and upon employers by the most ruthless of their competitors. We have had opportunity to perceive more clearly that a wage insufficient to support the worker does not visit its consequences upon him alone; that it may affect profoundly the entire economic structure of society and, in any case, that it casts on every taxpayer, and on government itself, the burden of solving the problems of poverty, subsistence, health, and morals of large numbers in the community.

Because of their nature and extent these are public problems. A generation ago they were for the individual to solve; today they are the burden of the Nation. I can perceive no more objection, on constitutional grounds, to their solution by requiring an industry to bear the subsistence cost of the labor which it employs

than to the imposition upon it of the cost of its industrial accidents. (See *New York Central Railroad Co.* v. *White*, supra; *Mountain Timber Co.* v. *Washington*, 243 U. S. 119.)

WOULD LEAVE LEGISLATURE FREE

It is not for the courts to resolve doubts whether the remedy by wage regulation is as efficacious as many believe, or is better than some other, or is better even than the blind operation of uncontrolled economic forces. The legislature must be free to choose unless government is to be rendered impotent. The fourteenth amendment has no more embedded in the Constitution our preference for some particular set of economic beliefs than it has adopted, in the name of liberty, the system of theology which we may happen to approve.

I know of no rule or practice by which the arguments advanced in support of an application for certiorari restrict our choice between conflicting precedents in deciding a question of constitutional law which the petition, if granted, requires us to answer. Here the question which the petition specifically presents is whether the New York statute contravenes the fourteenth amendment. In addition, the petition assigns as a reason for granting it that "the construction and application of the Constitution of the United States and a prior decision" of this Court "are necessarily involved", and, again, that "the circumstances prevailing under which the New York law was enacted call for a reconsideration of the Adkins case in the light of the New York act and conditions aimed to be remedied thereby."

Unless we are now to construe and apply the fourteenth amendment without regard to our decisions since the Adkins case, we could not rightly avoid its reconsideration even if it were not asked. We should follow our decision in the Nebbia case and leave the selection and the method of the solution of the problems to which the statute is addressed where it seems to me the Constitution has left them—to the legislative branch of the Government.

Mr. Justice Brandeis and Mr. Justice Cardozo join in this opinion.

TEXT OF CHIEF JUSTICE HUGHES' DISSENTING OPINION ON MINIMUM WAGE LAW

Mr. Chief Justice Hughes, dissenting:

I am unable to concur in the opinion in this case. In view of the difference between the statutes involved, I cannot agree that the case should be regarded as controlled by *Adkins* v. *Children's Hospital* (261 U. S. 525). And I can find nothing in the Federal Constitution which denies to the State the power to protect women from being exploited by overreaching employers through the refusal of a fair wage as defined in the New York statute and ascertained in a reasonable manner by competent authority.

First. Relator in his petition for habeas corpus raises no question as to the fairness of the minimum wage he was required to pay. He does not challenge the regularity of the proceedings by which the amount of that wage was determined. We must assume that none of the safeguards of the statute was ignored and that its provisions for careful and deliberate procedure were followed in all respects.

It is important at the outset to note the requirements of that procedure, as they at once dispose of any question of arbitrary procedural action.

OBJECTIVES OF STATUTE

The statute states its objectives. It defines an "oppressive and unreasonable wage" as one which "is both less than the fair and reasonable value of the services rendered and less than sufficient to meet the minimum cost of living necessary for health."

It defines a "fair wage" as one "fairly and reasonably commensurate with the value of the service or class of service rendered." It relates to an industry, trade, or business other than domestic service or labor on a farm.

The industrial commissioner is authorized to investigate and ascertain the wages of women and minors. If he is of the opinion that any substantial number of women or minors are receiving "oppressive and unreasonable" wages, he must appoint a wage board to make report. That board is to be composed of not more than three representatives of employers, and equal number of representatives of employees, and not more than three disinterested persons representing the public.

The wage board is fully equipped with authority to conduct a comprehensive investigation. It may differentiate and classify employments in any occupation according to the nature of the service rendered. It may recommend minimum fair wage rates varying with localities. It may recommend a suitable scale of rates for learners and apprentices which may be less than those recommended for experienced women or minor workers.

REHEARING PROVIDED FOR

The wage board may take into account all relevant circumstances affecting the value of the service or class of service. It may be guided by such considerations as would guide a court in a suit for the reasonable value of services rendered. It may consider the wages paid in the State for work of like or comparable character by employers who voluntarily maintain minimum fair wage standards.

The commissioner may approve or disapprove the report of the wage board. If the commissioner disapproves, he may resubmit the matter to the same or a new board. In case the report is approved, the commissioner is to make a "directory order" which defines minimum "fair wage rates" and is to include appropriate administrative regulations.

The latter may embrace regulations governing learners, apprentices, piece rates or their relation to time rates, overtime or part-time rates, bonuses or special pay for special or extra work, deductions for board, lodging, and other items or services supplied by the employer, and other special conditions.

Special licenses authorizing employment at lower rate may be issued to a woman or minor whose earning capacity is impaired by age or physical or mental deficiency or injury.

PROCEDURE IS REVIEWED

If the commission has reason to believe that an employer is not observing the provisions of the "directory order", he may, upon notice, summon the employer to show cause why his name should not be published as having failed to comply with the order. And, after hearing and in case of a finding of nonobservance, the commissioner may cause the name of the employer to be published.

After a "directory minimum fair wage order" has been in effect for 9 months, if it appears that there has been persistent nonobservance, notice may be given of the intention to make the order mandatory and of a public hearing at which all persons in favor of or opposed to such a mandatory order may be heard. And it is after such hearing that the commissioner may make the previous directory order, or any part of it, mandatory and publish it accordingly.

It is disobedience to such a mandatory order which is punished by fine or by imprisonment. It is the violation of such an order, made after the inquiries, report, the tentative order, and the hearings which the statute enjoins, that is the basis of the prosecution in the case at bar.

CONSTRUCTION NOT BINDING

Second: In reaching its conclusion the State court construed the opinion in the Adkins case and deemed that ruling applicable here. That, however, is a construction of the decision of this court. That construction is not binding upon us.

When the opinion of the State court is examined in order to ascertain what construction was placed upon the statute, we find little more than a recital of its provisions. The State court says:

"The New York act, as above stated, prohibits an oppressive and unreasonable wage, which means both less than the fair and reasonable value of the services rendered and less than sufficient to meet the minimum cost of living necessary for health."

This is a repetition of the words of the statute in subdivision 7 of section 551 defining an "oppressive and unreasonable wage." The court adds: "The act of Congress (in the Adkins case) had one standard, the living wage; this State act has added another reasonable value. The minimum wage must include both.

"What was vague before has not been made any clearer. One of the elements, therefore, in fixing the fair wage is the very matter which was the basis of the congressional act."

ASSUMES STANDARD IS SET

But the court expressly recognizes that a wage is not denounced by the New York act as "oppressive and unreasonable" unless it is less than the fair and reasonable value of the services rendered. The statute also provides in explicit terms that the "fair wage" which is to be prescribed is one that is "fairly and reasonably commensurate with the value of the service or class of service rendered."

I find nothing in the opinion of the State court which can be taken to mean that this definite provision of the statute is not obligatory upon the authorities fixing a fair wage. Certainly, the court has not said so, and I think that we must assume that the standard thus described is set up by the New York act.

And there is no suggestion that the "fair wage", as prescribed in the instant case, was not commensurate with the reasonable value of the service rendered by the employees.

When the opinion of the State court goes beyond the statement of the provisions of the act, and says that the setting up of such a standard does not create a material distinction when compared with the act of Congress in the Adkins case, the State court is not construing the State statute. It is passing upon the effect of the difference between the two acts from the standpoint of the Federal Constitution. It is putting aside an admitted difference as not controlling. It is holding, as the State court says, that "forcing the payment of wages at a reasonable value does not make inapplicable the principle and ruling of the Adkins case."

That, it seems to me, is clearly a Federal and not a State question, and I pass to its consideration.

LIKE CASE NOT HEARD BEFORE

Third. The constitutional validity of a minimum-wage statute like the New York act has not heretofore been passed upon by this court. As I have said, the required correspondence of the prescribed "fair wage" to the reasonable value of the service which the employee persons stands out as an essential feature of the statutory plan.

The statute for the District of Columbia, which was before us in the Adkins case, did not have that feature. That statute provided for a minimum wage adequate "to supply the necessary cost of living to women workers" and "to maintain them in health and to protect their morals" (40 Stat. 963).

The standard thus set up did not take account of the reasonable value of the service rendered. As this court said, it compelled the employer "to pay at least the sum fixed in any event, because the employee needs it but requires no service of equivalent value from the employee."

In the cases of *Murphy* v. *Sardell* (260 P. S. 530) and *Donham* v. *West-Nelson Co.* (273 U. S. 657), the statutes of Arizona and Arkansas, respectively, were of a similar character, and both these cases were decided upon the authority of the Adkins case.

LAW CORRECTED OLD ERRORS

New York and other States have been careful to adopt a different and improved standard, in order to meet the objection aimed at the earlier statutes, by requiring a fair equivalence of wage and service.

That the difference is a material one, I think is shown by the opinion in the Adkins case. That opinion contained a broad discussion of State power, but it singled out as an adequate ground for the finding of invalidity that the statute gave no regard to the situation of the employer and to the reasonable value of the service for which the wage was paid. Upon this point the court said (261 U. S. pp. 558, 559):

"The feature of this statute which, perhaps more than any other, puts upon it the stamp of invalidity is that it exacts from the employer an arbitrary payment of a purpose and upon a basis having no casual connection with his business or the contract or the work the employee engages to do.

"The declared basis, as already pointed out, is not the value of the service rendered, but the extraneous circumstances that the employee needs to get a prescribed sum of money to insure here subsistence, health, and morals.

EFFECTS OF UNIONS CITED

"The ethical right of every worker, man or woman, to a living wage may be conceded. One of the declared and important purposes of trade organizations is to secure it. And with that principle and with every legitimate effort to realize it in fact, no one can quarrel; but the fallacy of the proposed method of attaining it is that it assumes that every employer is bound at all events to furnish it.

"The moral requirement implicit in every contract of employment, viz, that the amount to be paid and the service to be rendered shall bear to each other some relation of just equivalence, is completely ignored.

"A statute requiring an employer to pay in money to pay at prescribed and regular intervals, to pay the value of the services rendered, even to pay with fair relation to the extent of the benefit obtained from the service, would be understandable. But a statute which prescribes payments without regard to any of these things and solely with relation to circumstances apart from the contract of employment, the business affected by it, and the work done under it is so clearly the product of a naked, arbitrary exercise of power that it cannot be allowed to stand under the Constitution of the United States."

CASE HAS NEW ASPECT

As the New York act is free of the feature so strongly denounced, the question comes before us in a new aspect. The Court was closely divided in the Adkins case, and that decision followed an equal division of the Court, after reargument, in *Stettler* v. *O'Hara* (243 U. S. 629), with respect to the validity of the minimum-wage law of Oregon.

Such divisions are at times unavoidable, but they point to the desirability of fresh consideration when there are material differences in the cases presented. The fact that in the Adkins case there were dissenting opinions maintaining the validity of the Federal statute, despite the nature of the standard it set up, brings out in stronger relief the ground which was taken most emphatically by the majority in that case, and that there would have been a majority for the decision in the absence of that ground must be a matter of conjecture. With that ground absent, the Adkins case ceases to be a precise authority.

We have here a question of constitutional law of grave importance, applying to the statutes of several States, in a matter of profound public interest. I think that we should deal with that question upon its merits, without feeling that we are bound by a decision which on its facts is not strictly in point.

JUDGE LEHMAN QUOTED

Fourth. The validity of the New York act must be considered in the light of the conditions to which the exercise of the protective power of the State was addressed.

The statute itself recites these conditions, and the State has submitted a voluminous factual brief for the purpose of showing from various official statistics that these recitals have abundant support.

Judge Lehman, in his dissenting opinion in the court of appeals, states that the relator "does not challenge these findings of fact by the legislature, nor does he challenge the statements in the 'factual brief' submitted by the respondent to sustain and amplify these findings."

The majority opinion in the court of appeals have nothing to the contrary. Nor is the statement of the conditions which influenced the legislative action challenged, or challengable, upon the record here (*Lindsley* v. *Natural Carbonic Gas Co.*, 220 U. S. 61, 78–80; *Radice* v. *New York*, 264 U. S. 292, 294; *Clarke* v. *DeKebach*, 274 U. S. 392, 397; *O'Gorman & Young* v. *Hartford Insurance Co.*, 282 U. S. 251, 258; *Nebbia* v. *New York*, 291 U. S. 502, 530; *Borden's Farm Products Co.* v. *Baldwin*, 293 U. S. 194, 209).

FREEDOM OF CONTRACT "ILLUSORY"

The legislature finds that the employment of women and minors in trade and industry in the State of New York at wages unreasonably low and not fairly commensurate with the value of the services rendered is a matter of vital public concern; that many women and minors are not as a class upon a level of equality in bargaining with their employers in regard to minimum fair wage standards, and that "freedom of contract" as applied to their relations with employers is illusory; that, by reason of the necessity of seeking support for themselves and their dependents, they are forced to accept whatever wages are offered, and that judged by any reasonable standard, wages in many instances are fixed by chance and caprice and the wages accepted are often found to bear no relation to the fair value of the service.

The legislature further states that women and minors are peculiarly subject "to the overreaching of inefficient, harsh, or ignorant employers" and that in the absence of effective minimum fair wage rates, the constant lowering of wages by unscrupulous employers constitutes a serious form of unfair competition against other employers, reduces the purchasing power of the workers, and threatens the stability of industry.

PAY VARIATIONS FOUND

The legislature deemed it essential to seek the correction of these evils by the exercise of the police power "for the protection of industry and of the women and minors employed therein and of the interest of the community at large in their health and well-being and in the prevention of the deterioration of the race" (sec. 550).

In the factual brief, statistics are presented showing the increasing number of wage-earning women, and that women are in industry and in other fields of employment because they must support themselves and their dependents. Data are submitted from reports of the Women's Bureau of the United States Department of Labor, showing such discrepancies and variations in wages paid for identical work as to indicate that no relationship exists between the value of the services rendered and the wages paid.

It also appears that working women are largely unorganized and that their bargaining power is relatively weak.

The seriousness of the social problem is presented. Inquiries by the New York State Department of Labor in cooperation with the emergency relief bureau of New York City, disclosed the large number of women employed in industry whose wages were insufficient for the support of themselves and those dependent upon them. For that reason they had been accepted for relief and their wages were being supplemented by payments from the emergency relief bureau.

Thus the failure of overreaching employers to pay to women the wages commensurate with the value of services rendered has imposed a direct and heavy burden upon the taxpayers. The weight of this burden and the necessity for taking reasonable measures to reduce it, in the light of the enormous annual budgetary appropriation for the Department of Public Welfare of New York City, is strikingly exhibited in the brief filed by the corporation counsel of the city as an amicus curiae.

MUST NOT DISREGARD FACTS

We are not at liberty to disregard these facts. We must assume that they exist and examine respondent's argument from that standpoint. That argument is addressed to the fundamental postulate of liberty of contract. I think that the argument fails to take account of established principles and ignores the historic relation of the State to the protection of women.

Fifth. We have had frequent occasion to consider the limitations of liberty of contract. While it is highly important to preserve that liberty from arbitrary and capricious interference, it is also necessary to prevent its abuse, as otherwise it could be used to override all public interests, and thus in the end destroy the very freedom of opportunity which it is designed to safeguard.

We have repeatedly said that liberty of contract is a qualified and not an absolute right. "There is no absolute freedom to do as one wills or to contract as one chooses. Liberty implies that absence of arbitrary restraint, not immunity from reasonable regulations and prohibitions imposed in the interests of the community" (*Chicago, Burlington & Quincy R. R. Co.* v. *McGuire*, 219 U. S. 549, 567).

LISTS RESTRAINTS SUSTAINED

The numerous restraints that have been sustained have often been recited (Ill., p. 568; *Nebbia* v. *New York*, supra, pp. 526–528). Thus we have upheld the limitation of hours of employment in mines and smelters (*Holden* v. *Hardy*, 169 U. S. 366); the requiring of redemption in cash of store orders or other evidences of indebtedness issued in payment of wages (*Knoxvill Iron Co.* v. *Harbison*, 183 U. S. 13); the prohibition of contracts for options to sell or buy grain or other commodities at a future time (*Booth* v. *Illinois*, 184 U. S. 425); the forbidding of advance payments to seamen (*Patterson* v. *Bark Eudora*, 190 U. S. 169); the prohibition of contracts to pay miners employed at quantity rates upon the basis of screened coal instead of the weight of loaves of bread (*Schmidinger* v. *Chicago*, 226 U. S. 578; *Peterson Baking Co.* v. *Bryan*, 290 U. S. 579); the regulation of insurance rates (*German Alliance Insurance Co.* v. *Lewis*, 233 U. S. 389; *O'Gorman & Young* v. *Hartford Insurance Co.*, supra); the regulation of the size and character of packages in which goods are sold (*Armour & Co.* v. *North Dakota*, 240 U. S. 510); the limitation of hours of employment in manufacturing establishments with a specified allowance of overtime payment (*Bunting* v. *Oregon*, 243 U. S. 426); the regular sales of stocks and bonds to prevent fraud (*Hall* v. *Geiger-Jones Co.*, 242 U. S. 539); the regulation of the price of milk (*Nebbia* v. *New York*, supra).

UPHOLDS PROTECTION OF WOMEN

The test of validity is not artificial. It is whether the limitation upon the freedom of contract is arbitrary and capricious or one reasonably required in order appropriately to serve the public interest in the light of the particular conditions to which the power is addressed.

When there are conditions which specially touch the health and well-being of women, the State may exert its power in a reasonable manner for their protection, whether or not a similar regulation is, or could be, applied to men.

The distinctive nature and function of women, their particular relation to the social welfare, has put them in a separate class. This separation and corresponding distinctions in legislation is one of the outstanding traditions of legal history.

The fourteenth amendment found the States with that protective power and did not take it away or remove the reasons for its exercise. Changes have been effected with the domain of State policy and upon an appraisal of State interests. We have not yet arrived at a time when we are at liberty to override the judgment of the State and decide that women are not the special subject of exploitation because they are women and as such are not in a relatively defenseless position.

FICTITIOUS EQUALITY DENIED

More than 40 years after the adoption of the fourteenth amendment we said that it did not interfere with State power by creating "a fictitious equality" (*Quong Wing* v. *Kirkendall*, 223 U. S. 59, 63). We called attention to the ample precedents in regulatory provisions for a classification on the basis of sex. We said:

"It has been recognized with regard to hours of work. It is recognized in the respective rights of husband and wife in land during life, in the inheritance after the death of the spouse. Often it is expressed in the time fixed for the coming of age. The particular points at which that difference shall be emphasized by legislation are largely in the power of the State."

1D. Not long before the decision in the Quong Wing case the question had received elaborate consideration (*Muller* v. *Oregon*, 208 U. S. 412), where the regulation of the working hours of women was sustained. We thought that the disadvantage at which woman was placed in the struggle for subsistence was obvious, and we emphasized the point that she "becomes an object of public interest and care in order to preserve the strength and vigor of the race."

WOMEN IN CLASS ALONE

We added that "though limitations upon personal and contractual rights may be removed by legislation", woman will still be in a situation "where some legislation to protect her seems necessary to secure a real equality or right."

She therefore still may be "properly placed in a class by herself, and legislation designed for her may be sustained, even when like legislation is not necessary for men and could not be sustained" (*Muller* v. *Oregon*, supra, pp. 421, 422).

This ruling has been followed in *Riley* v. *Massachusetts* (232 U. S. 671); *Miller* v. *Wilson* (236 U. S. 373); and *Bosley* v. *McLaughlin* (236 U. S. 385), with respect to hours of work, and in *Radice* v. *New York*, supra, in relation to night work.

If liberty of contract were viewed from the standpoint of absolute right, there would be as much to be said against a regulation of the hours of labor of women as against the fixing of a minimum wage. Restriction upon hours is a restriction upon the making of contracts and upon earning power. But the right being a qualified one, we must apply in each case the test of reasonableness in the circumstances disclosed.

WOULD UPHOLD ACT

Here the special conditions calling for the protection of women, and for the protection of society itself, are abundantly shown. The legislation is not less in the interest of the community as a whole than in the interest of the women employees who are paid less than the value of their services. That lack must be made good out of the public purse.

Granted that the burden of the support of women who do not receive a living wage cannot be transferred to employers who pay the equivalent of the service they obtain, there is no reason why the burden caused by the failure to pay that equivalent should not be placed upon those who create it.

The fact that the State cannot secure the benefit to society of a living wage for women employees by any enactment which bears unreasonably upon employers does not preclude the State from fixing its objective by means entirely fair both to employers and the women employed.

In the statute before us no unreasonableness appears. The end is legitimate and the means appropriate. I think that the act should be upheld.

I am authorized to state that Mr. Justice Brandeis, Mr. Justice Stone, and Mr. Justice Cardozo join in this opinion.

[From the New York Times of June 2, 1936]

THE MINIMUM WAGE CASE

The 5-to-4 decision of the Supreme Court declaring the New York minimum wage law for women and children unconstitutional is unfortunate in more than one respect. It was reached by a majority of only one, as was the 4-to-3 decision of the New York Court of Appeals against the act. That decision in turn was based on a 5-to-3 decision of the Supreme Court 13 years ago holding a District of Columbia minimum wage law unconstitutional. In each case the minimum wage law missed validation by the closest possible margin.

The New York minimum wage law was carefully drawn and admirably administered. Unlike the N. R. A., it was not rushed through hastily and put into effect emotionally, to the accompaniment of parades and noisy "crack-down" threats. The minimum wages in the laundry and in the hotel industries were not adopted until after a board had carefully investigated the relevant facts. The minimum wages in the laundry industry, for example, were desired by the employers themselves, in order to put a competitive "bottom" to wage competition. Under the law, the wages paid to more than 22,000 women and minor employees in the laundry industry in New York State were raised from an average of $10.41 a week to $13.42.

In the case decided by the Supreme Court in 1923, Justice Sutherland, in writing the majority decision, remarked:

"The feature of this statute which perhaps more than any other puts upon it the stamp of invalidity is that it exacts from the employer an arbitrary payment for a purpose and upon a basis having no causal connection with his business or the contract or the work the employee engages to do. * * * A statute requiring an employer to pay * * * the value of the services rendered * * * would be understandable."

The New York State minimum wage law was drawn with this criticism in mind. It declared "a fair wage" to be a wage "fairly and reasonably commensurate with the value of the service or class of service rendered", and directed the industrial commissioner and the wage board, in fixing minimum wages for women in a given industry, to "take into account all relevant circumstances affecting the value of the service or class of service rendered."

The majority decision now holds the New York State minimum wage unconstitutional on the ground that it violates the "due process" clause of the Constitution in that it deprives persons of the right to make contracts. Justice Butler, speaking for the majority, contends that "in making contracts of employment, generally speaking, the parties have equal right to obtain from each other the best terms they can by private bargaining." To this Chief Justice Hughes, in his dissenting opinion, replies that while it is important to protect liberty of contract, "it is also necessary to prevent its abuse. * * * The test of validity is not artificial. It is whether the limitation upon the freedom of contract is arbitrary and capricious or one reasonably required in order appropriately to serve the public interest." The Chief Justice holds the New York law to be reasonable. Justice Stone adds that a wage is "not always the resultant of free bargaining between employers and employees"; that "it may be one forced upon employees by their economic necessities and upon employers by the most ruthless of their competitors."

The majority decision will leave the States at sea regarding how they are to deal with the exploitation of women in industry.

[From the Washington Post of June 2, 1936]

AN UNFORTUNATE DECISION

The implications of the Supreme Court opinion invalidating New York's minimum-wage law for women are far reaching indeed. Two weeks ago the Court decided, in its opinion on the Guffey Coal Act, that Congress has no authority to regulate wages in "purely local" undertakings. Now, by invoking the "due process of law" clause in the fourteenth amendment, it has denied to the States even the right to prescribe minimum wages for women and children.

In the first place, the decision is weakened by the vigorous dissent of Chief Justice Hughes along with Justices Stone, Brandeis, and Cardozo. Justice Stone virtually accuses the majority of injecting its own "personal economic predilections" into its opinion on a legal question. And the basis on which the decision was rendered seems to give substance to his complaint.

That phrase in the Constitution on which the opinion of the majority is based reads as follows: "Nor shall any State deprive any person of life, liberty, or property without due process of law." The majority held that the right of employees to bargain with their employer is part of the liberty so guaranteed. "Legislative abridgement of that freedom," the opinion held, "can only be justified by the existence of exceptional circumstances." But to arrive at this opinion the Court was forced to read a very broad interpretion into the meaning of four words—"due process of law."

It is difficult to escape the conclusion that the Court has gone out of its way to restrict legislative powers of the State. As Justice Stone points out, a contract of employment seems to be no "less an appropriate subject of legislation than are scores of others, in dealing with which this Court has held that legislatures may curtail individual freedom in the public interest." For the Court to reject this reasoning by a bare majority of one vote, and to draw new restrictions upon the States from the uncertain meaning of the "due-process" clause, seems very questionable.

Aside from its probable effect upon legislation to control minimum wages for women and minors within the States, the most important result of the decision will probably be the reaction against the Court itself. In a great majority of the opinions by which the Court has annulled New Deal statutes its action has been based upon positive and clear-cut logic deeply imbedded in the Constitution. But in this case, as well as in the decision which knocked out the Municipal Bankruptcy Act, the majority seems to have taken its stand on much more precarious ground.

The powers of the States are not specifically limited as are those of the Federal Government. Since four of the Justices could "find nothing in the Federal Constitution which denies to the State the power to protect women from being exploited by overreaching employers through the refusal of a fair wage", it does seem strange for the majority to wrench such a meaning from a vague phrase.

Such an attitude will give unfortunate encouragement to those critics of the Court who are seeking to curb its powers.

[From the Washington Daily News of June 2, 1936]

AND NOW WHAT?

The public's power to deal with economic and social problems is now impaled upon two horns of a legalistic dilemma. Or, as the saying goes, "it's damned if you do and damned if you don't."

Last week that power could not be exercised by the Federal Government because that would interfere with States' rights.

This week the power cannot be exercised by State government because it runs afoul of another kind of constitutional barrier.

The first case was the Guffey coal decision. The second, the New York minimum-wage law.

Since both Federal and State Governments are thus made impotent by judicial decree, more sharply than ever rises the question: Now what?

We are living in an increasingly complex civilization. These problems arise, such as saving a sick and far-flung industry and preventing the exploitation of labor and the evils of cutthroat competition through wage slashing. They aren't just academic problems. They are so serious and so real that the whole future of an intricate industrial system is at stake. But government, the only force through which a people can deal, finds itself paralyzed.

Striking comment on the situation comes from the four dissenting justices. Said Mr. Justice Stone, speaking for himself and Justices Cardozo and Brandeis:

"There is grim irony in speaking of the freedom of contract if those who, because of their economic necessity, give their services for less than is needful to keep body and soul together. But if this is freedom of contract, no one has ever denied that it is freedom which may be restrained, notwithstanding the fourteenth amendment, by a statute passed in the public interest. * * *

"It is difficult to imagine any grounds other than our own personal economic predilections for saying that the contract of employment is any less than an appropriate subject of legislation than are scores of others in dealing with which this Court has held the legislatures may curtail individual freedom in the public interest. * * *

"It is not for the courts to resolve doubts whether the remedy by wage regulation is as efficacious as many believe or is better than some other, or is better than the blind operation of uncontrolled economic forces. The legislature must be free to choose unless the Government is to be rendered impotent."

Said Chief Justice Hughes: "I can find nothing in the Federal Constitution which denies the State the power to protect women from being exploited by overreaching employers through the refusal of a fair wage as defined in the New York statute and ascertained in a reasonable manner by competent authority."

But, after all, that was comment only from the minority, and in terms of effect the minority doesn't count. So we have the impasse—a situation made worse than that described last Thursday night by Senator BORAH when he said that the American people would not long tolerate an empire for the purposes of exploitation and a government of 48 States for purposes of regulation. The minimum-wage decision takes the teeth even from the States.

It is pertinent, we believe, to ask the majority, as they leave for their recess, to give some little thought, from the perspective that vacation provides, to the question of where do we go from here.

ADDRESS BY CHAIRMAN FARLEY AT MASSACHUSETTS STATE DEMOCRATIC CONVENTION

Mr. WALSH. Mr. President, I ask unanimous consent to have printed in the RECORD the address delivered by Hon. James A. Farley, chairman of the Democratic National Committee, at the preprimary convention of the Massachusetts Democratic State committee, at Springfield Auditorium on the 4th instant.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

This is a business community, so I purpose making a strictly business talk to this gathering.

The particular business of your convention tomorrow, as I see it, is to take such steps as may insure that the business of the country shall continue to improve; that there shall be no interruption to the processes of recovery which have brought us so far in the direction of prosperity.

The great majority of the American people desire and have determined that there shall be no such interruption but that full business recovery and general prosperity shall be completely achieved.

President Roosevelt will be reelected by a majority so impressive that nobody in this country can have any doubt as to the faith of our people in the sincerity and ability of the Democratic administration to direct our affairs, so that the old Democratic ideal of the greatest good for the greatest number shall be realized.

Our critics doubtless will say that this is politics and not economics. Well, politics and commercial success at this stage of the national progress are inseparable. It was politics to accomplish the retirement of an administration that had lamentably failed and bring about the election in 1932 of Franklin D. Roosevelt with a mandate to correct the abuses that had brought us to the verge of ruin and to bring us back to a condition where it was possible for manufacturers and merchants to prosper and the rest of us could be reasonably sure of at least an opportunity to make a decent living.

So here we are 4 years later and things are immeasurably better than they were. They are not perfect by any means, but industrial and commercial enterprises, great and small, are making money, and the total of popular well-doing is constantly improving. I will say that the elements that are fighting the administration have not helped in bringing about this state of affairs. We would be much farther on our way if it had not been for the incessant clamor of our political foes, who have fought every step of our progress. Their constant effort is to replace the impulse of faith and hope, engendered by the revival of business activity, with the philosophy of fear.

That is what has delayed complete recovery. That is what has delayed the reinvestment of profits, and that is why there are so many still unemployed even in the face of rising markets, increased incomes, resumption of dividends, and almost universal reports of satisfactory trade balance sheets.

No statistician has yet been able to calculate how many enterprises that would have added to the total of employment have been headed off by the constant declaration of those who know better that the country was going to the dogs and could only be saved by the repudiation of the Roosevelt administration.

Fortunately, the mass of our people have been guided by their common sense, by the obvious logic of the circumstance that an agency that had proved so effective in encouraging and helping business must be an asset and not a liability, a source of promise and not a threat of disaster.

Some of our critics are the heads of corporations that are now able to make their ledger entries in black that had been red ever since the stock market crash of nearly 7 years ago. You might ask what they are complaining about? Trimmed down to simple words, it is that, having been placed again on their financial feet, they are now seeking a return to the old processes that made millionaires of them and bankrupts of the rest of us.

Incidentally, that is politics, also. I leave it to you to decide which is the better politics—that which seeks to continue our steady progress toward the contentment of everybody or that which croaks that the people who are working to that end are bent on destruction and that nothing but chaos lies ahead if the process is continued.

We have laws that make it a crime to circulate reports that a bank is unsound. How much greater a crime is it to give currency to reports that a government is unsound? What about fabrications such as that your President is aiming to make himself a dictator and is moving toward destroying the American system and substituting socialism, communism, and wants to sink the Constitution, abandon the principles of Jefferson, and sail under the grisly flag of Karl Marx?

Here is the hardest-worked man in the United States, plugging away cheerfully, sanely, and devotedly at his monumental task, under a constant barrage of faultfinding. If our enemies are to be believed, President Roosevelt is never right. If one of his recommendations is accepted by Congress, it is because he has terrorized the National Legislature and made it a rubber stamp; if his suggestion is modified or rejected by Congress, it means that he was wrong in the first instance and that Congress—the same one that they insisted was a rubber stamp—has saved the country from something dreadful. Of course, that does not make sense.

Grudgingly the spokesmen for the Du Pont Liberty League and the other Republican agencies admit that conditions have improved and that business is doing pretty well, but they insist that Mr. Roosevelt is not entitled to any credit for bringing this about. They have taken up the statement of ex-President Hoover, to the effect that he had the depression licked in June of 1932, and therefore Mr. Roosevelt couldn't be credited with driving the wolf from the door.

I daresay there are a number among those listening to me who remember the period between June 1932 and the advent of the Roosevelt administration. I wonder if they saw any evidence of a stay in the depression tide? I wonder what significance there is to the circumstance that 1,050 banks folded up during that period, not to mention 19,686 other business failures of various sorts. It seems to me that things grew worse from day to day, and that the nose spin did not cease until Roosevelt stopped it.

We have only to refer to the columns of your home newspapers to check on the question of when the depression showed signs of abating. I note, for example, an editorial in the New Year's edition of the Springfield Union, 2 months before President Roosevelt's advent to the White House. That eminent newspaper gave us no word of a ceasing of emergency distress, but it implied a hope for improvement when the new administration came in. "It is time to look forward," said this editorial, "but to look forward in hopeful expectation. It means the rekindling of faith in the future, a new determination to forget all that is painful in the past, a time to mark off a new date from which to make progress. * * * We can make a fresh start along a new pathway with confidence and faith that better things are ahead."

The headlines of that day were all gloomy. "Prices drop back to level of last summer" was one early in January. Here's another

one: "Ragged retreat in bond market. United States Government issues lead way down. Numerous other casualties." That was in the middle of February. And there was like mention of the cutting of the New England Telephone & Telegraph dividends.

Almost the first gleam came with President Roosevelt's inauguration. "Stock market makes gain of 1 to 3 points. Expected developments in Washington factor in rise. Strong rally after selling." And editorially this newspaper declared "The rapid change from public concern to public confidence is to be credited mainly to the bold and effective manner in which President Roosevelt tackled the situation." And further down it announced that "the reopening of banks has changed a general suspicion of all banks into faith and soundness of most of them." By the first of the next year, 1934, the Union was absolutely cheerful, for it said, "As the beginning of 1934 is compared with that of 1933, we have the evidence of distinct gains and a general improvement. In gratitude for it the administration may not be criticized for claiming it all as of its own making, should it choose to do so, or if others make such a claim for it."

By the end of 1935 we find the New England press pretty optimistic. In the Boston Herald, for example, at the close of the year William C. Bell, vice president of the New England Power Association, told us: "Not only are we running ahead of 1934 but in recent weeks we have even exceeded the banner year of 1929."

It was shortly after this time that the highly respected Springfield Union suggested that, after all, the recovery might not be due to the New Deal policies: "It (the upward trend) has been impeded by many measures originated by the Roosevelt administration." And it suggested that the increase was most pronounced when it was believed "that the country was getting out of New Deal domination into normalcy."

Just the same, this home paper of yours on its business pages recounted incident after incident indicating the return of prosperity to this part of the country. Editorially it told its readers, "Clothing and dry-goods circles are optimistic about the outlook. Dun & Bradstreet report an increase of 10 to 18 percent in retail sales in the eastern area with the advent of mild weather. Shoe sales ahead of a year ago", etc.

By the middle of last March we learn, still from the columns of this newspaper, that "department stores of the East are now leading the upturn in retail trade, showing the largest increases of any geographical group in the last 6 weeks. Whatever gains we are making cannot be credited directly to New Deal hand-outs, though public construction elsewhere brings business to our industries along with others."

I need not read you the more recent editorials from this newspaper which are, as you know, directed vehemently to assailing the Roosevelt administration. The President is pictured as seeking to establish a despotism; and recently it advised that "the American people should remember that a vote for the New Deal is a vote for a complete regimentation of the country, and possibly the permanent submergence of all that this country won in 1776."

Of course, the newspaper is entitled to its own opinion, and my quotations from its columns are merely for the purpose of pointing out to you that success and business recovery has accompanied the Roosevelt administration, and that even one of its severest critics, while scolding at that administration, nevertheless is compelled to record that this State has prospered under it.

One of the favorite accusations against the administration is that it has favored the western farmer over the eastern industrialist. Yet we must note that the so-called favor to the farmers has resulted most satisfactorily for your industries. The income taxes paid in this State indicate, despite the moaning about dictatorship and the prophecies of chaos ahead, that the net income of your citizens has increased perhaps $200,000,000 over the 1933 income.

You have heard moans about continued unemployment. But the Bureau of Labor Statistics reports a steady rise in employment in this State of 10 percent and pay rolls averaging 26 percent more than they were in 1933.

The Federal Reserve Board tells us that your bank deposits are $200,000,000 more than they were 2 years before.

You have doubtless noticed comment to the effect that the New Deal was destroying our foreign trade. Well, last year's report showed that Boston last year did 57 percent more foreign business than the year before, and that 1936 is running well ahead of 1935. That means that a couple of thousand New England firms producing merchandise for export are doing pretty well.

It might be not without significance that there were 900 fewer failures in business in the Bay State last year than there were in the year preceding the coming of the Democratic regime to Washington.

Our critics would have you believe that the difference is a mere coincidence. So, they would have you consider in the same light, the circumstance that during the 4 years of Mr. Hoover's administration there were upward of 6,000 bank failures in the United States, while the number of corresponding disasters under Roosevelt total fewer than 400, and a considerable number of these meant little loss to the depositors because of the bank-insurance measure which they, I suppose, construe one of the errors of the present administration.

A favorite criticism from the minority party spokesmen is that the Roosevelt period is one of waste and extravagance. They do not specify just where this waste and extravagance is, conveying the impression that practically all the money expended in relief and emergency efforts is money thrown to the birds. If we could compare what is being spent to keep destitute Americans from starvation, and to uphold our business structure with the waste involved in the suspension of thousands of banks and tens of thousands of other commercial failures during a dozen years of Republican rule, the amount possibly misspent under the present administration would seem like chicken feed. If we balance the total of the national deficit against the increase in the value of properties and securities since the change from Hoover to Roosevelt, the country as a whole is far ahead. Incidentally the Treasury deficit was not a Democratic invention. We inherited several billions of the adverse balance from the previous administration, most of it incurred before there was any Nation-wide destitution to be taken care of.

Among those who talk a great deal about the sqandering of the people's money is a distinguished aspirant for the Republican Presidential nomination. Recently he has received the vote of his party in your sister New England State—New Hampshire. Perhaps I am taking a chance in referring to a State group. Not long ago I described one of our great western agricultural Commonwealths as a "prairie State", and was thereupon accused of speaking slightingly of that State and of insulting the whole country between the Alleghenies and the Rocky Mountains and from Texas to the Great Lakes.

But to get back to the Chicago publisher candidate: He vehemently charges the Roosevelt administration with ruthless, reckless, reasonless extravagance (I do not know if I have given all the colonel's adjectives) and he piles up the figures of expenditure to staggering totals. Now let us see about at least one phase of this summary.

It appears that the farmers and other citizens of Massachusetts have been loaned about $120,000,000 on their farms and homes.

This amount figures in the total of obligations. Would the colonel suggest that the good people of Massachusetts are not going to pay this debt and that the Government will have to take over the farms and homes in satisfaction of the mortgages? You and I know better. We have a demonstration of the validity of loans in Massachusetts. The Reconstruction Finance Corporation advanced your banks and similar institutions—on good security and a reasonable interest rate—about $74,000,000. Already these institutions and individuals have repaid $44,000,000.

Calculate what the grand total of such advances throughout the United States amounts to, and you will see that the actual deficit is some billions of dollars less than the figures offered by the colonel would indicate.

Waste! Do you of this grand old State consider wasted the $27,734,000 the Government spent on the 53 civilian conservation camps, that took 10,790 of your fine boys out of the despairing ranks of the jobless and gave them a training in healthy outdoor work that will be to their own and the Nation's benefit indefinitely? Do you consider what these boys did when the floods came upon you in the way of rescue and restoration as futile and piffling boondoggling? Do you believe that the improvement of your woods, the clearing of your streams, the establishment of forest-fire lanes, the halting of soil erosion that was washing your fertile fields into the rivers, represented mindless profligacy? Yet that is what the conductors of the hopeless Republican campaign are trying to make you believe.

You probably have seen a lot of Republican propaganda charging favoritism, incompetency, and politics in the administration of the relief programs. Let me quote to you what your mayor had to say on this subject:

"All W. P. A. projects are submitted by the various boards to a public works projects committee composed of two aldermen and three common council members, which committee gives very careful scrutiny to each and every project with a view toward protecting the city from a waste of municipal funds and also to guarantee some worth-while concrete results upon completion of each project.

"I want to go on record as saying that we have no 'boondoggling' in this city and that each project sponsored by this city is useful and worth while and will be of lasting benefit to the community and could not have been carried out at this time without Federal aid.

"We have constructed sanitary sewers, storm-water drains, streets and highways, bridges and municipal buildings, sidewalks and curbing. We have widened streets and roads and developed hundreds of acres of parks; built rustic shelters and miles of nature trails and bridle paths. By an extensive program of ditching we have reclaimed hundreds of acres of swampland on our municipal watershed, and by so doing have increased the flow of water into our reservoirs and improved the quality of the water. Fire stops on the watershed have saved valuable timber from forest fires and prevented erosion."

Similar statements have been made by practically every mayor of an important American city.

Now let us look back to the candidate I spoke of. He is enthusiastically in favor of keeping the farmers prosperous, but is singularly silent as to how he would go about doing it. He is likewise vividly concerned about taxes and their effect on business. Well, suppose we take a specimen to illustrate how business is faring. In 1932 General Motors Corporation reported a net profit of $160,000. In 1935 its net profit was $167,000,000. Increased taxes do not appear to have been an unbearable burden to this business.

A little while ago the colonel was calling the President a Socialist. More recently he described him as a Tory, but I suppose it would be too much to expect consistency in a Republican candidate.

Experience in public affairs is supposed to be a rather important requisite of aspirants for high public places. Perhaps this does not apply when the aspirant is a newspaper publisher. You have only to note the ease and confidence with which the Republican editors

tell you the facile solutions to the great problems that have puzzled the brains of lifelong students of these subjects since the beginning of government to appreciate the infallability of our newspaper friends.

In paying tribute to the statesmen who are after the Republican nomination I do not feel I should overlook Senator DICKINSON, of Iowa—the dog-food expert. He made an impassioned speech not long ago to the effect that the Roosevelt administration was so bad that it had reduced men and women to the necessity of eating dog food. His basis for this was a label on a package stating that the canine nutriment was "fit for human consumption." The erudite Senator did not realize that prepared dog foods are for the consumption of pampered pets, and cost more than canned beans, for example. Likewise he did not know that the wording on the label is only a trade device to obtain the benefit of certification by Government inspection, which is limited to foods fit for human consumption.

What these ambitious gentlemen are saying is really of little importance. They are part of the campaign wildness of a party that is devoid of a legitimate issue, and must beat the bushes for a candidate, while it resorts to generalities and fables for arguments.

I feel rather apologetic for taking the time of an intelligent, hard-headed Yankee audience with such matters, but the authors of them must think they are of some political value or they would not keep repeating them, and we may be sure that they will be echoed in the platform of the Cleveland convention.

The people of Massachusetts have shown their courage, wisdom, and patriotism at every crisis in our Nation's history. I know how you feel about President Roosevelt. I know that you appreciate the bravery with which he tackled the problems that faced him on his advent to the White House. I am sure you appreciate the serenity with which he pursues his stupendous task, unvexed and unexcited by the clamors of those who would undo what he has done. And I know that you are excellent businessmen, and that what he has accomplished for recovery is understood by you.

I have no doubts whatever what will be the verdict of this great State when your people go to the polls next November to testify your faith in the sincerity, ability, and efficiency of your President. And let me assure you that the other Commonwealths of the wonderful sisterhood that constitutes our Union will be with you in thought, word, and deed, as they were 4 years ago.

PEACE AND PREVENTION OF WAR—ADDRESS BY CARRIE CHAPMAN CATT

Mr. BENSON. Mr. President, that valiant leader of American women, Carrie Chapman Catt, carried the plea for peace and for prevention of war to fifteen hundred women from all sections of the United States and from 15 foreign countries in an address delivered June 4 before the banquet session of the Associated Country Women of the World meeting this week in Washington.

The delegates from these 15 foreign nations will carry Mrs. Catt's work back to their native lands; hundreds of American delegates will carry them back to their various communities; but I believe they should be made available to all the women of this country, and, therefore, I ask unanimous consent that excerpts from Mrs. Catt's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

It is not long, as time flies, since all schools, open to girls, taught the rudiments of education only. The first women to graduate with degrees in the entire world in the class of 1841 at Oberlin, Ohio, and the women numbered three.

Education is now world-wide for women. In the year of 1932 there were 372,912 women students in the colleges and universities of the United States.

In the early days women speakers in this country were pelted with bad eggs and rotting vegetables. Our famous Independence Hall in Philadelphia was torn down and set on fire by a mob because a woman was speaking there. Now women may speak whenever they have anything to say and equally when they have nothing to say. More, women now vote in more than half the countries of the world. Within a century women have become rational, responsible human beings, endowed with an education, the right to speak, and the right to vote. What should the world expect of educated, self-respecting human beings? And what do we expect of ourselves? The old routine for women is not good enough for us now.

This is a period of problems. Farm women are probably especially interested in some of these problems; city women are interested in others. But there is one thing which I am quite sure interests all women, and that is the abolition of war. To my mind it outranks all other problems, because war is the father of most of the problems of this day. The world is in a predicament with its unemployment, its relief, its business stagnation, and all these troubles and many more are direct results of the Great War.

Why have another before the last one is paid for? Why another before the wounds made in civilization itself by that war are healed?

War is the oldest institution in the world, as it is the most cruel, most destructive, most uncivilized, and most unreasonable. Time was when men went forth in the spirit of adventure and returned as heroes. They killed and looted, but that was long, long ago. Modern society is too complicated, too diversified, to afford or to profit by the waste of war. The Great War cost $93.50 for every man, woman, and child in the entire world. The depression, the inevitable aftermath of war, will probably cost each government as much as the war itself, while the preparation for the next war, that all the nations fear, may yet exceed the cost of both. War fills the world with hate and fear and war has kept these two evils growing for a million years. No war can stop them. Instead, each new war starts new hates and new fears.

War is enemy no. 1 of everything good in the world. Its spirit has spread to business and to politics in all lands. It is the false foundation of civilization itself, shaping its character, and giving direction to all the chief developments. There will never be a really civilized world until war and all its horrible adjuncts are abolished from the earth. It can be done when the people of the world demand it. They and they alone can stop war.

Listen, do you farm women not know that war keeps you poor, that your Nation spends too much money for guns, airplanes, and poison gas, and too little for farm welfare? Do you know that every nation builds too many warships and too few friendships? Do you not know that the worst blow to your farm would be the death of your son, or sons, on a battlefield? Do not forget that today no nation can secure a large enough army by volunteer enlistment. The next war will be fought by conscripted armies, as the last one was, and your sons of the right age will be compelled to go. The way to save your sons is by the abolition of war itself. Say these things to your family, your husband, and your sons, your neighbors. Will they pronounce you a fanatic? They will, and it is by the activity of fanatics alone that war will be abolished. Make fanatics of your family and neighbors and you will not feel lonesome.

It is not necessary for you American women to flounder through the intricacies of neutrality, the political confusion of joining the League of Nations, or the more complicated, so-called economic causes of war in order to understand war. There is no cause, real or false, that justifies war. Such talk merely wastes time and postpones the day when wars will cease. They are the "red herrings" thrown in your way to confuse you.

Become a minute woman for peace—a crusader. Make the abolition of war your chief aim in life. This is the time when a common problem and a common aim unite city and country, farm and factory.

The abolition of war is the biggest and most stubborn problem in the world today. When war goes, most of the other problems which perplex us will disappear. Those that remain can command more money, more time, more wisdom for their settlement than is possible now. War cannot be chiseled down to moderation; it must be abolished, root and branch. Farm women, city women, all women, be crusaders for the total abolition of war. Use your education and your votes to that end. Perhaps your emancipation from the old oppressions has fitted you to serve this particular time like Esther of old.

Crusaders for the abolition of war, I greet you!

Peace is the one common interest of the women of all continents, of all races and nations, of all classes and kinds.

DECISION OF SUPREME COURT IN MINIMUM WAGE LAW CASE

Mr. GUFFEY. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Philadelphia Record of June 4, and also an editorial from the New York Post of June 4, having to do with the recent decision of the Supreme Court in the minimum wage law case.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Philadelphia Record of June 4, 1936]

THE KING CAN DO NO WRONG

The king can do no wrong.

Corollary of that great principle "Divine right of kings", to which the best people of the American Colonies and Europe subscribed some two centuries ago.

Hard for us moderns to appreciate such implicit faith in the far-fetched dogma that one man was anointed of God and thereby endowed with superhuman wisdom.

Must have strained the faith of devout monarchists when two members of the royal family contended for the throne, and the one with the quickest assassin won the divine appointment.

But it's human nature for those in the money to embellish the status quo with a sanctity which renders criticism sacrilegious.

Thus the nobles of old were ready to fight and die for the divine right of the king from whom they derived their titles and privileges.

Thus the Tories of today, usually men of large property, throw an aura of sanctity around the Constitution and the Supreme Court to stifle reason and analysis.

Such was not the attitude of the founding fathers. They fought then to destroy the divine-right-of-kings myth. They would fight today just as strenuously against attributing to any man or set of men more than reasonable human ability and character.

It is un-American, dangerous, and foolish to consider the Supreme Court above criticism.

Its decision invalidating minimum-wage laws was a bad decision.

It was a bad ruling, concocted of false premises and faulty logic.

We respect the Supreme Court, but that respect must be circumscribed by our reason and our conscience.

Reason tells us that if the State of New York has the right to fix the price of milk to protect dairy farmers, even more obvious is its right to fix the price of labor to protect women workers from exploitation.

Reason tells us that if these same Justices held the Federal Government could not fix minimum wages to protect miners in the Guffey Act because such a law would violate State rights, they cannot reasonably turn around and say the States cannot fix minimum wages.

Reason tells us that the due-process clauses in the fifth and fourteenth amendments were intended to protect humanity, not to exploit it.

Conscience tells us that a good law protects the weak as against the strong.

It is obvious that Justice Stone has no greater respect for the majority opinion than we have. In dissent he says:

"There is grim irony in speaking of the freedom of contract of those who, because of their economic necessities, give their service for less than is needful to keep body and soul together. But if this be freedom of contract, no one has ever denied that it is freedom which may be restrained, notwithstanding the fourteenth amendment, by a statute passed in the public interest."

Twisting the Constitution by the Supreme Court is not without precedent. Chief Justice Taney used false facts and false reasoning to misinterpret the Constitution as endorsing chattel slavery.

Now Justice Butler and four of his colleagues are using the same methods to twist the Constitution into an endorsement of wage slavery.

Because the Dred Scott decision was clothed in legal trappings, the Nation took too seriously the attempt of six reactionaries to justify their prejudice against the Negro race.

We fought a bloody Civil War to correct that mistake.

Let not that mistake be made again. Let us take this majority opinion for what it is worth—the attempt of five reactionaries to justify their aversion to giving working people a fair break.

Curb this Court before it destroys the Nation.

[From the New York Post of June 4, 1936]

THE AMERICAN HOUSE OF LORDS

Even conservatives are jolted by the Supreme Court's decision on the New York minimum-wage law.

The Times finds the decision "unfortunate." Even the Herald Tribune is shocked and says that "the present decision, adhering so literally to the Adkins case of 13 years ago, can hardly be regarded as the last word on this difficult question."

Is it any wonder? When it is borne in mind that of the 13 Supreme Court Justices to pass on minimum wage legislation, 7—a majority—have declared that legislation to be constitutional?

Minimum-wage laws are unconstitutional today only because no five of these seven Justices were on the bench at one time.

Both Chief Justice Taft and Chief Justice Hughes favored minimum wage laws. Dissenting with Taft in the Adkins case in 1923 were Justices Sanford and Holmes. Dissenting today with Hughes are Justices Stone, Brandeis, and Cardozo.

Minimum-wage laws are unconstitutional, then, because of the caprice of fate that Justices Sutherland, Butler, Van Devanter, and McReynolds all were on the bench in both 1923 and 1936, finding Justice McKenna to agree with them in 1923 and Justice Roberts now.

Upon such flimsy basis does the Court's obstruction of social reform rest today.

Is it any wonder even the Tories are worried?

They know that the minimum-wage laws of 16 States, invalidated by this decree, were for the most part approved by Republican legislatures and Republicans as well as Democratic Governors.

They know that these States went to great lengths to tailor their minimum-wage legislation to meet what were believed to be the requirements of the Constitution.

But five Justices say there shall be no minimum-wage laws.

Chiseling is constitutional.

Unwelcome as it may be to politicians of both parties, the Supreme Court's usurpation of power is the issue of the hour.

With all avenues of orderly social reform closed there is but one peaceful alternative: Orderly reform of the Court itself.

That must come if we are to preserve the Court as an American institution; if the Constitution itself is to survive.

The people of England were forced to strip the House of Lords of its veto power.

The people of the United States must end the veto power of our own House of Lords, the Supreme Court.

The President and Congress have it in their power to limit the jurisdiction of the Supreme Court, under section 2 of article III of the Constitution. They can increase the number of Judges to override the present arrogant majority. They can compel judicial retirements. They can sponsor constitutional amendments limiting the Court's power and specifically authorizing social reform, although there is scarcely time, in this crisis, to amend the Constitution.

It is not nearly so important at this juncture that one certain way be chosen as it is that some way be chosen.

That aggressive leadership be exerted at once to safeguard public rights while there is yet time, before resentment against judicial rapacity leads to rash demagoguery and demands to abolish the Court and scrap the Constitution.

FEDERAL TAX ON GASOLINE

Mr. CLARK. Mr. President, I ask unanimous consent to have inserted in the RECORD an editorial from the Tulsa (Okla.) Oil and Gas Journal relative to the continuance of the temporary Federal tax on gasoline.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Tulsa (Okla.) Oil and Gas Journal]

CONTINUANCE OF TEMPORARY FEDERAL TAX ON GASOLINE AROUSING OPPOSITION

The movement for the repeal of the Federal tax on gasoline and the reservation of that tax to the States is making rapid headway. Washington is hearing from the States lulled into acquiescence at the time of the original enactment by the plea that the Federal tax was to be only a temporary measure during the emergency. The gasoline-buying public also is becoming restive and demanding repeal.

The temporary character of the Federal gasoline tax is well recognized by those instrumental in the original passage in 1932, being well illustrated by the fact it was adopted reluctantly and for only 1 year, whereas the Revenue Act of 1932 imposed all other levies for a 2-year period. When the tax was enacted neither time nor opportunity permitted careful consideration, and it was admittedly passed as a matter of expediency in a temporary move to balance the Federal Budget.

DANGEROUS EXTREME

The power to levy taxes for the support of government has long been recognized as a fundamental, necessary exercise of sovereignty; without such power no government is able to function properly. However, the historical phrase, "the power to tax involves the power to destroy", points out the dangerous extreme to which excessive exercise of this governmental prerogative may progress. Consideration of the present Federal gasoline tax must, in all fairness, be weighed in the light of this factor.

Any general review of sales taxes, imposed by Federal, State, and local governments, indicates such assessments were originally applied to so-called luxuries, and then only for the purpose of satisfying revenue needs. The benefit theory was discarded and greater emphasis placed on the ability-to-pay doctrine. However, the recent economic emergency necessitated a departure from these standard doctrines, and now many modern essentials of life are included in revenue schedules, notably gasoline, which in 1935 paid a State and Federal sales tax amounting to 39.04 percent of the service-station price, based on statistics from 50 representative cities.

For a number of years the various States have imposed an excise tax upon the sale of gasoline, the first being Oregon in 1919. Until 1932 this field of taxation was used only by the States and was not encroached upon by the Federal Government.

SENATOR GORE'S PROTEST

However, unknown to the great majority of motorists and to many in the oil industry, the first proposal of a sales tax upon gasoline was that of a Federal gasoline tax, the proposal being made by Congress as early as 1913, when the first income-tax law was enacted. In that year the Ways and Means Committee of the House recommended a 2-cent-per-gallon Federal tax. Later a Federal gasoline tax of 1 cent per gallon was agreed to by the Democratic members of the Senate Finance Committee over the protests of Senator T. P. GORE, of Oklahoma, who was then, as he is now, a member of that committee.

Senator GORE lost the fight by only one vote in the committee and carried the fight to the Democratic caucus, where he won by a majority of three votes. It was during this fight against the enactment of a Federal gasoline tax that Senator GORE, also a member of the Senate Committee on Agriculture, evolved this now-famous slogan: "Conserve both soil and oil—overtax neither oil nor soil."

By the action of the Democratic caucus the Federal gasoline tax was eliminated from the revenue act of that year, and such a law was not enacted until 1932, 19 years after the first proposal was made before Congress.

In his annual message to Congress on December 7, 1915, President Wilson also proposed a Federal gasoline tax, but Congress failed to enact such a law. The next time such a proposal was made was in the revenue bill passed by the House on September 20, 1918, in which was included a provision for a Federal excise tax of 2 cents per gallon on gasoline, estimated to yield $40,000,000 per year. This provision was eliminated by the Senate Finance Committee.

The State of Oregon enacted the first gasoline-tax law on February 25, 1919, imposing a tax of 1 cent per gallon to finance highway construction, improvement, and maintenance. Within a few years all the States and the District of Columbia had adopted this type of tax for the express purpose of building and maintaining highways.

GROWING EXACTION

Since gasoline-tax rates in the State were, at first, usually low and since the revenues were expended on the highways, there was very little opposition by the consumers. The motoring public was willing to pay for good highways. The gasoline tax, however, proved to be such a splendid source of revenue to the States, and was, in contrast with other forms of taxes, so easily collected, the result was rates were rapidly increased. The rates in the various States now range from 2 to 7 cents per gallon, with the average well above 4

cents. Total gasoline tax collections by the States in 1935 were approximately $625,000,000. Some idea of the present importance of the gasoline tax as a source of revenue for the States is gained from the fact it raises approximately one-third of all the money collected for State government purposes.

All of the States first taxed gasoline on the theory that it should be used exclusively for highway purposes. However, when revenues from other sources began to fall off, or when funds were needed for new purposes, the ease with which tax rates could be increased and the ease with which the tax was collected caused legislatures in some States to divert gasoline-tax funds to uses other than for highways.

Then in 1932 the Federal Government, seeking to augment its revenue, invaded the gasoline-tax field by imposing a temporary tax of 1 cent per gallon on gasoline sold by the producer or importer thereof. Congress recognized the injustice of this duplicate tax, but condoned it on the grounds of extreme emergency and expressed the intention it was a temporary levy.

The House Ways and Means Committee, in the report of its subcommittee on double taxation, submitted December 28, 1932, said:

"When the gasoline tax was first discussed in the House of Representatives of the United States it was felt by many that this field of taxation was fully occupied by the States and should be left to them. The House did not include this tax in the revenue bill as sent to the Senate. The Senate, however, in the light of later figures as to the deficit and as to the probable tax yield, was obliged to amend the bill by including a tax upon gasoline."

DOUBLE TAXATION

The same report on double taxation stated: "The Federal (gasoline) tax is a temporary measure."

In 1933 Congress repealed the provision of the 1932 Revenue Act which set the expiration date for the Federal gasoline tax as June 30, 1933, extending the expiration date to June 30, 1934. However, a report of the Senate Finance Committee dated May 10, 1933, stated: "Your committee is of the opinion that the gasoline tax should be reserved for the States after June 30, 1934."

When this subject came up for discussion before the Ways and Means Committee of the House at the 1933 session of Congress, Chairman DOUGHTON said:

"This was an emergency tax. I am sure Congress was reluctant to impose a tax on gasoline; but in order to balance the Budget, Congress felt that it was necessary temporarily to impose a tax of 1 cent a gallon on gasoline.

"Over the objection of the House, it was passed in the Senate, and we concurred in it because they said the whole structure of the Government would perish if the Budget was not balanced, and we, too, were anxious to balance it; and consequently, in the rush to close the session of Congress and to balance the Budget, we imposed the gasoline tax." (Hearings, p. 824, Dec. 20, 1933.)

Later in the same session the National Industrial Recovery Act extended the expiration date to June 30, 1935, and increased the rate of tax. While the N. R. A. was being considered various proposals were made to increase the 1-cent Federal gasoline tax to 2 cents and 1¾ cents per gallon. As the bill was finally passed it provided for an increase of one-half cent, making the total Federal gasoline tax 1½ cents.

However, Congress again recognized the temporary nature of the tax by specifying the additional ½-cent tax should expire with the repeal of the eighteenth amendment to the Constitution, or when the receipts of the Federal Government should exceed the expenditures. President Roosevelt proclaimed the repeal of the eighteenth amendment effective December 5, 1933, and on January 1, 1934, the Federal gasoline tax rate reverted to 1 cent per gallon.

The various States early recognized that the Federal gasoline tax is, and should be, only an emergency Federal levy. The first recommendation of the initial report of Interstate Commerce Commission on conflicting taxation, unanimously approved on March 25, 1933, stated:

"Gasoline taxes. Since Congress has declared that the Federal tax on gasoline was levied only as a temporary expedient on account of the emergency, the Commission urges the Federal Government to relinquish this source of revenue for the exclusive use of the States at the end of the next Federal fiscal year, namely, June 30, 1934."

LEGISLATURES PETITION

The legislatures of the States started petitioning Congress as early as 1932, requesting the elimination of the emergency Federal gasoline tax and the leaving of this field of taxation solely to the States for the purpose of building and maintaining highways. To date the following States have memorialized Congress in this manner: Arkansas, Mississippi, Montana, New York, North Carolina, Oklahoma, Oregon, South Dakota, Michigan, Maine, Minnesota, Nebraska, South Carolina, Maryland, Tennessee, Texas, New Mexico, Colorado, California, Alabama, and Kentucky.

Later the Governors of many States openly expressed themselves as urging Congress to repeal the Federal gasoline tax. Governor Hill McAllister, of Tennessee, stated: "I wish that the Federal Government would abandon its tax on gasoline and leave this source of revenue entirely to the States." Governor Clyde Tingley, of New Mexico, has stated: "It will continue to be the policy of this administration to do everything possible to eliminate the Federal tax on gasoline." Similar statements have been made by Gov. J. M. Futrell, of Arkansas, and governors of other States.

Thus, it appears that the temporary and emergency character of the Federal gasoline tax is well recognized by Congress, by State administrations, and the motoring public. The latter group—those that pay the tax—are by implication virtually promised that when the emergency is past the Federal gasoline tax shall be eliminated.

However, the continued conditions of depression prolonging the national emergency have facilitated retention of this source of Federal revenue, and the ease with which this tax is collected has diverted attention from other equitable and logical sources of revenue. As a result, the 1-cent Federal gasoline tax is still in effect, the expiration date of the tax having been extended to June 30, 1937, at the first session of the Seventy-fourth Congress.

When the Federal gasoline tax was first enacted the motorists offered no concerted opposition. They were willing to acquiesce in view of the emergency confronting the country and the assurance of various Members of Congress that such a tax was only a temporary Budget-balancing expedient. But these taxpayers have since discovered that the economic emergency is likely to become a permanent basis for Federal invasion of this field.

The fact must be admitted that conditions are now immeasurably better than those existing in June 1932, the time when the Federal tax on gasoline was inaugurated. Thus, the emergency argument for the continuance of the Federal levy on gasoline is not now justified, and the repeal of this tax would be a further stimulant to business and industry in every State in the Union.

"HOT OIL" LEGISLATION

Mr. DUFFY. Mr. President, I ask unanimous consent to have printed in the RECORD a letter written by the junior Senator from Texas [Mr. CONNALLY] to the editor of the Tulsa World, Tulsa, Okla., with respect to "hot oil" legislation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
April 15, 1935.

Hon. EUGENE LORTON,
The Tulsa World, Tulsa, Okla.

MY DEAR LORTON: Ever since you expressed an interest in oil legislation I have been intending from term to term and day to day to write you in regard to the "hot oil" legislation recently enacted by Congress. I put it off, however, in order to check and double check the actual workings of this measure to see how well it answered the purpose and object which we had in mind.

I am glad to report: As you know, when the Supreme Court held section 9 (c) of the N. R. A. Act to be an unsound delegation of legislative authority, both Senator GORE and I introduced bills in the Senate to meet the contingency and the emergency caused by that decision. There was not much material difference between our two measures. We reconciled those differences by amending my bill which was in due course enacted into law. We felt that the passage of this measure at this time would save the situation and avert any undesirable consequences and would make it unnecessary to adopt further legislation which might undertake to regulate and regiment the entire oil industry, which should be done, if at all, only as a last resort after other methods have been tried and found ineffective.

Of course, I need not tell you nor any other Oklahoman of the interest and efforts which are always being furthered by Senator GORE in connection with any matters or measures affecting the welfare of the oil business or those engaged in the business.

Sincerely,

TOM CONNALLY.

POWERS OF SUPREME COURT—PROPOSED CONSTITUTIONAL AMENDMENT

Mr. BENSON. Mr. President, the people of the United States have been challenged to do something about the Constitution of the United States as interpreted by the Supreme Court. It might almost be said that they have been challenged until they have become hardened to challenges and immune to decisions—decisions that rob them of every right to legislate for their own welfare and their own security and relegate them to economic slavery.

When the people of this country have been so challenged, the Congress, which they elect as their representatives, is challenged. The same challenge that has been thrown down to Congress has been hurled at every farm leader, every labor leader, every cooperative leader, every social-welfare advocate, and every person in a position of leadership in the Christian churches which have demanded the application of Christian principles in our social and economic system.

The N. R. A. decision denied the Government the right to regulate industry for the public welfare, even though it was for the welfare of industry itself.

The A. A. A. decision denied the right of Congress to legislate for the Nation's greatest industry, comprising a greater share of its people—agriculture.

In the A. A. A. decision the Supreme Court denied Congress the right to use its tax power to improve agriculture. Yet that same Court has never interfered with the power of Congress to establish tariffs for the protection and benefit of industries and industrial profits.

The Supreme Court declared the Railroad Retirement Act unconstitutional when Congress sought to provide retirement pensions for railroad employees.

On the same day that it knocked out the N. R. A. the Supreme Court declared unconstitutional the Frazier-Lemke farm-mortgage law, which provided a 5-year moratorium under specified conditions by which the debt-ridden farmers of this country might earn back or win back their farms and homes.

The Supreme Court has invalidated under our present Constitution the rights of Congress to prevent the sweatshop labor of little children in a land where 11,000,000 grown-ups ask in vain for jobs.

It has held null and void the Guffey Coal Act, in which Congress sought to legislate for the benefit of hundreds of thousands of workers in the coal industry and for the ultimate benefit of the industry itself.

And now has come the crowning blow of all in the United States Supreme Court decision written last Monday by Justice Butler, which holds invalid and unconstitutional the New York State minimum-wage law. The interpretation placed upon our Constitution by our present Supreme Court, in other words, has nullified legislation for the benefit of agriculture, labor, and industry on the grounds that such legislation invades State rights. And now it has nullified State legislation on the ground that the States have not this right.

Only a few weeks ago this same Justice Butler, after participating in a split decision holding that social-welfare legislation violated State rights, reversed himself within a few days and handed down another opinion robbing the State of North Dakota of the right to tax the property of a vast railway corporation that lay within its borders.

The Guffey Coal Act decision virtually closed the door to regulation by the Federal Government of the hours, wages, and working conditions in productive industries. The Supreme Court decision on the New York minimum-wage law denied that right to the States.

President Roosevelt has aptly stated that the Supreme Court interpretations of our Constitution has created a "no man's land" in which neither State legislatures nor Congress can legislate for the benefit of the vast millions of our people.

So unbelievable is this plight in which we find ourselves at the mercy of the Supreme Court that even the reactionary press, which has constantly defended a reactionary Court, has been forced to seek refuge this time in the solitary defense that "It must say so in the Constitution." I call to your attention the fact that most of these decisions, so important to the welfare of millions upon millions of American people, have been rendered by narrow margins of split votes of the nine members of the Court itself. Many of them have been rendered by votes of five to four, as was the New York State wage decision. In other words, the vote of one member of the Supreme Court has determined that the Constitution prohibits the people's representatives in Congress from legislating for the people they represent, and prevents the people's representatives in the State legislatures from legislating for the people they represent.

It is clear that only two remedies remain to correct this situation. One is to limit the power of the Supreme Court; the other, to safeguard the people's right by amending the Constitution.

I believe that section 2 of article III clearly gives the Congress the right to regulate the powers of the Supreme Court, and to make whatever exceptions it sees fit to prevent the Supreme Court invalidating any act enacted by the Congress.

But perhaps the time is too short and the stake too precious to the welfare of our people to permit a congressional effort along that line. The Supreme Court in turn would, no doubt, hold this also to be unconstitutional, and thus throw the Nation into a state of confusion and bewilderment.

Several brilliant newspaper commentators have said that the sum total of Supreme Court activities is to hold that chaos, and chaos alone, is constitutional. I do not know but what that might be the very "constitutional" state into which we would be thrown were we to attempt to exercise what I believe is our well-defined authority to regulate the Supreme Court.

My colleague [Mr. SHIPSTEAD] warned of the situation we have today, when on May 27, 1933, in debate on the floor of the Senate, he referred to the attitude of the Supreme Court on railroad valuation cases. He was joined by Senator NORRIS and the late Senator LONG in a discussion which disclosed that Justice Butler faced a bitter fight against confirmation in the Senate. He finally took his seat with the understanding that he would not pass on the railroad rate cases, in view of the fact that he had just prior to his appointment been the leading attorney in the United States as counsel for the railroads in their efforts to establish this method of valuation.

Justice Butler did not sit on the railroad cases perhaps, but he did sit in the Indianapolis Water Works case, which came on before the O'Fallon case, where identically the same question was involved, and the waterworks case, as Senator SHIPSTEAD then pointed out, served as a guide for the later decision in the valuation of railroads for rate-making purposes.

But there is another way, and that way lies in the adaptation of the Constitution itself in unmistakable terms to the social and economic necessities of our people today. We must write into the Constitution specific provisions granting to the Government definite authority to enact legislation essential to the welfare of the people.

William Allen White, one of the closest Republican friends of the man who with little doubt next week will be the Republican candidate for President, has had this to say about the enslaved position in which the wage decision has left us. I quote:

> The Supreme Court has honestly, even if tragically, called our attention to the need of a power in government which now is obviously restricted. That need is the issue of the hour. The Republican convention must not sidestep it. Our party did not dodge the Dred Scott decision. It must not blink at this. The Republican Party must not let the Democrats fire the first shot in the new battle for human freedom.
>
> No other agency than government can bring justice into the relations of those who work with the machines and those who own the machines.

Representative HAMILTON FISH, of New York, conservative Republican and an oft-mentioned Republican possibility for Vice President, has said on the floor of the House—I quote:

> I am frankly shocked by this unfortunate 5–4 decision that compels millions of loyal Americans to work for wages that will not secure for them the common necessities of life. The Supreme Court has presented the American people with a new Dred Scott decision condemning millions of Americans to economic slavery, and the issue will not down until it has been righted in the public interest.

Congressman FISH announced he will introduce a proposed constitutional amendment.

Are you of the vast Democratic majorities that control these two Houses of Congress going to shut the door to proposals for consideration of constitutional amendments, and let the Republican enemies of everything that is liberal and praiseworthy about the New Deal seize the torch from your hands?

President Roosevelt—the President you Democrats, with the help of the Farmer-Laborites and other liberals and progressives of this country, elected—has declared we are left desolate in a chaotic "no man's land." He has asked every adult person to read the three decisions of the Supreme Court. He has inferred he would like to see action toward a sane elimination of this "no man's land." He would, I believe, like to see every understanding person have knowledge of what this decision means. I understand that there are to be printed in today's RECORD the full text of the opinion of the five-judge majority, and also the illuminating minority opinion of Justice Stone, concurred in by Justices Brandeis

and Cardozo, as well as the minority opinion of Chief Justice Hughes, concurred in by Justices Cardozo, Brandeis, and Stone. I shall not, therefore, ask that the opinions be printed as a part of my remarks.

We have the physical means at hand to virtually abolish poverty, to establish security and justice, and opportunity for all. But we have not the legal means, either because our Constitution has never been brought up to date, or because a majority of the Supreme Court that we have intrusted to interpret that Constitution is either woefully antiquated or callously insensible to the needs and demands of our people.

There is time left for this session of Congress to submit a remedy to the crying people of this Nation—the farmers, the workers, the children, the aged, and unemployed, all of whom are being trampled underfoot by constitutional interpretations. Those people, I believe, challenge their leaders and their Congress to act.

We have before this Congress a proposed constitutional amendment, which I have had the honor to introduce in the United States Senate. It is in the form of Senate Joint Resolution 249. I had despaired of action on that resolution before adjournment, but the no-man's-land decision in the New York case, coming as it does on top of the devastating blows already handed to the farmers, home owners, and organized labor, has created an unmistakable and immeasurable demand that this resolution be given a hearing by the present Congress now.

The proposed amendment will make unmistakable the power of Congress to regulate child labor; to fix limits for hours and wages; to protect the right of collective bargaining; to provide relief for the aged, ill, and unemployed; to regulate the marketing and processing of agricultural products; to control natural resources and such vast enterprises as are essential for the social and economic welfare of the people; and to legislate generally for their social and economic well-being.

This resolution has been formally endorsed by hundreds of recognized organizations of farmers, workers, and citizens. It is obvious that I do not ask this Congress to put this amendment into the Constitution of the United States.

I only ask this Congress to give the people of the United States a right to vote on it, an opportunity to write it into their own Constitution if they so desire.

At least I ask that a committee of this Senate, in the time that remains before adjournment, give to proponents of such a constitutional amendment a right to be heard before we close the doors to a hearing and go out to commit the hypocrisy of campaigning for votes by championing issues on which we have had the power but have not had the courage to act.

INTERNAL-REVENUE TAXATION

The Senate resumed consideration of the bill (H. R. 12395) to provide revenue, equalize taxation, and for other purposes.

The VICE PRESIDENT. The question is on the amendment submitted by the Senator from Alabama [Mr. BLACK] on behalf of himself and the Senator from Wisconsin [Mr. LA FOLLETTE] to the committee amendment on page 30.

The Senator from Wisconsin is entitled to the floor.

Mr. LEWIS. Mr. President——

The VICE PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Illinois?

Mr. LA FOLLETTE. I yield.

Mr. LEWIS. I tender a motion relating to the pending bill and ask that it lie on the table for the time being and be printed in the RECORD.

The VICE PRESIDENT. The motion submitted by the Senator from Illinois will be received, printed, printed in the RECORD, and lie on the table.

The motion referred to is as follows:

Motion intended to be proposed by Mr. LEWIS to the bill (H. R. 12395) to provide revenue, equalize taxation, and for other purposes:

"As Member of the Senate representing the State of Illinois, for reasons heretofore given in speech presented to the Senate, I respectfully move that the bill designated as the tax bill (H. R. 12395) be recommitted to the Senate committee designated as the Senate Finance Committee for the reconsideration of all phases necessary to the complete understanding of the different objections and contentions made either for or against the bill during debate and in the course of present consideration, and move that there be no report for action upon the bill at the present session of Congress."

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Massachusetts?

Mr. LA FOLLETTE. I yield.

Mr. WALSH. Mr. President, the Finance Committee have for submission to the Senate a large number of amendments dealing with the administrative features of the pending bill, which have been presented and are now in print. I ask unanimous consent that I may offer them at this time and have them lie on the table.

The VICE PRESIDENT. Without objection, the amendments will be received and lie on the table subject to call.

(Mr. LA FOLLETTE resumed and concluded the speech begun by him on Wednesday last.)

Mr. LA FOLLETTE. Mr. President, because of the measures which have been taken with the objective of checking the tide of the depression, we are confronted in this year, as I believe we have been in every year since extraordinary expenditures were begun, with the need of increasing the revenue of the Federal Government. So far as I am concerned, early in the depression I advocated the adoption of a program to put people to work. In the first bill which I offered, however, I suggested a form of increased taxation in order eventually to retire the bonds which were provided to be issued under the terms of the bill. In each succeeding session of Congress, when the opportunity has been presented in connection with revenue bills, I have advocated increasing taxes in order to meet the fiscal situation created by expenditures—not that I believed that the Budget could be balanced in the technical sense, but I took the position that the Government needed the increased revenues, because it seemed to me that the economic crisis was similar to the crisis of war.

In a war a government must unbalance its budget in order to conduct the war and carry it to a successful conclusion. However, it has always been the policy of governments that were operating upon a sound fiscal theory in time of war to impose heavy taxes in order to raise from revenues and from war profits as much of the money as possible for the conduct of the war. In this respect, a Nation-wide depression is similar to a war. During a depression of the magnitude of the present one there are certain extraordinary expenditures which must be made; they cannot be avoided. By the same token, however, we should increase the revenues in order to raise from taxation as much as possible of the extraordinary expenditures, with the objective not of immediately balancing the Budget but of maintaining Government credit. As we look back upon the post-war history of the large industrial countries we see that all of them in this period of depression have eventually come to the point where they had to make a fundamental decision. On the one hand, they levy the taxes necessary to maintain government credit, or they could take the easier route and adopt methods of financing through uncontrolled inflation. Only one great industrial country, aside from the United States, has had the courage to follow the former course, and that is Great Britain. I firmly believe that we are confronted at this session of Congress, as I believe we have been at every past session of Congress since 1933, with the necessity of raising more revenue.

The fundamental question that presents itself to the Congress is how and where we shall levy the additional burden. I believe the theory that taxes should be levied in proportion to the ability of the taxpayer to carry the burden is fundamentally sound.

As I see it, there are approximately four sources of income from which we may get additional revenue. One is from business profits. Another source of income is wages and salaries. Another source of income is interest. A fourth

source of income is rents. Waving aside the theoretical consideration of a capital levy, these are the four basic sources of income from which we can obtain additional revenue.

What are the facts? The facts are the taxpayers' receipts from interest are not rising. On the contrary they have been falling until today interest, on the average, is lower than at any time in the recent history of the country.

Can we say that those who derive their incomes from rents are in a position to carry a heavy share of the increased burden? I do not think so. While it is true there has been a slight rise in rents generally over the country, in percentage the increased income to the recipients of rents has been relatively small.

Are wages and salaries rising? In answer to that question we may disregard wages, because the bulk of income-tax payers in the country under our existing system are not found among those in the wage-earning income group. Salaries have been rising, but the testimony before the committee was that they have not been increased greatly.

This leaves business profits as the only other source from which we may ask taxpayers to contribute additional revenue to the Government. What are the facts about the increase in business profits? According to the Standards Statistics Index, profits of 1,307 corporations for 1935 were 42 percent above those for 1934. One hundred and sixty-one representative corporations showed an increase of 69 percent in business profits. The figures for the same corporations show that the profits during the last quarter of 1935 were 117 percent greater than the profits for the last quarter of 1934.

In this connection I wish to point out that, in 1933, 67 corporations in the United States had one-third of the total corporated income enjoyed by all corporations of the United States.

Mr. President, with these facts confronting the Congress, we are in a position to say that in the light of the necessity which confronts the Government the one place in which we can demonstrate that there has been a sharp rise in income is in the form of corporate profits.

Any tax system which is long to have the support of the citizens of the country must be an equitable system. There is today in our tax system great inequity. It arises from the fact that there is a great difference between the taxes paid upon corporate earnings by corporations and taxes paid by individuals in the individual income-tax brackets.

During the illusory days of an alleged prosperity before 1929, when the revenues of the Government were rising, the Republicans, who were responsible for the fiscal and tax policies, advocated constant reduction in income-tax brackets until in 1929 the top brackets on $1,000,000 or more of net taxable income in the form of individual income were fixed at 20 percent. The tax paid by a corporation was 12½ percent. In that situation there was no great disparity between the amount of tax paid on corporate profits in the treasury of a corporation and the amount of tax paid upon the same profits had they been distributed to the individual and taken up by him in his individual income tax.

As the depression descended upon the country and it became evident more revenue was needed, the income-tax brackets have been severely increased, particularly above $50,000 of net taxable income, until today on the top bracket of individual income a tax of 75 percent is imposed, while under existing law corporations pay upon their profits 12½ to 15 percent. Therefore it becomes obvious at a glance that for the individual who is in the income-tax bracket of $50,000 of net taxable income or above there is a tremendous incentive to exercise whatever influence he may have upon the policies of corporations in which his funds are invested to have them retain in their treasuries as large an amount as possible of their corporate earnings, since the corporation pays a flat tax at the highest of only 15 percent; and yet the individual, if he should receive the same profits in his individual income in the form of dividends, would have to pay upon them all the way from 50 to 75 percent.

Therefore, Mr. President, when the present administration realized that it must increase the Government's revenue, surveying the situation, seeing that corporate profits were a form of income which had climbed most markedly and substantially since 1933, realizing this inducement for tax avoidance on the part of those in the upper income-tax brackets, it suggested that the inequity in the tax system should be corrected.

From listening to the sound and the fury before the Senate Finance Committee and in the hostile press of the country, one might come to the conclusion that a new, novel, and radical idea had been put forward by the President. On the contrary, the same principle was in the income-tax law during Civil War days. The same principle was considered by the Congress in 1917. It was considered again in 1921. Some of the wisest, ablest—yes, some of the most conservative—experts on taxation in this country pointed out this opportunity for tax avoidance; and for many years—in fact, since 1917—these experts, some of them in official capacities, have been recommending that the Congress should deal with the situation.

Dr. Adams, who was economic adviser to the Treasury Department, and a very conservative economist, is one of those I have in mind when I make this statement. The same proposition, not in this identical form but the same in principle, passed the Senate of the United States in the session of 1924, and was eliminated in conference only because the conferees representing the Senate were not in sympathy with the action of the Senate itself.

Mr. President, I should like now to direct the attention of the Senate to the charts which are hanging on the wall. (See charts on pp. 9049, 9050.)

The purpose of the first chart is not to demonstrate the objective of the President's message, nor the objective of the bill as it passed the House, nor the objective of any of the amendments that may be pending or that may be offered. The purpose of this chart is to demonstrate the inequities in our present tax system; and, in order to make the demonstration, it has been assumed in preparing the charts that all the 1936 corporate earnings would be distributed.

Let me emphasize that this chart is not designed for the purpose of showing what is desired to be obtained by the House bill, or by the Senate bill, or by the amendment which is pending. The chart is to demonstrate the situation that confronts the people of the country insofar as this inequity in our tax system is concerned, which is brought about, as I pointed out, because of the difference between the flat corporate tax now paid upon all the earnings corporations retain and the tax in the high individual income-tax brackets on incomes of $50,000 or more.

With that statement I desire to point out that if the earnings in 1936 of all the corporations in America were distributed 100 percent, the income groups into which that additional income would fall would be as follows:

Three hundred and ten million dollars would go to those who are in the income group of $5,000 or less, $538,000,000 would go to the income group between $5,000 and $10,000, $600,000,000 would go to the income group between $10,000 and $30,000, $762,000,000 would go to income-tax payers who are in the $30,000 to $100,000 brackets, $918,000,000 would go into the hands of those who are in the $100,000 to $500,000 income-tax brackets, and $887,000,000 would go to those who today enjoy net taxable incomes of $500,000 or more.

I desire to point out also that this theoretical distribution of all the corporate earnings to be made in 1936 would result in bringing an additional 176,343 persons into the income-tax brackets below $30,000. On the other hand, only 14,959 additional persons would be brought into the income-tax brackets from $30,000 up. I also wish to point out, referring to the top category on the chart, incomes of $500,000 and over, that only 612 additional persons would be brought into that particular bracket.

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from Maryland?

Mr. LA FOLLETTE. I shall be glad to yield to the Senator from Maryland.

Mr. TYDINGS. I wish to ask the Senator from Wisconsin who is the authority for the figures that are being offered. Do they come from the Treasury experts?

Mr. LA FOLLETTE. They were prepared by the Treasury, and are vouched for by Mr. McLeod, the chief actuary of the Treasury Department.

Mr. TYDINGS. In other words, the authority upon which the Senator relies is the same authority which advised with the Committee on Finance in the preparation of the committee amendments?

Mr. LA FOLLETTE. I do not know on what experts the majority of the committee drew. I assume they drew on the experts of the Joint Committee on Internal Revenue Taxation, who do not determine policy, but who carry out orders.

These figures are sponsored by the actuarial division of the Treasury Department, and are predicated upon their exhaustive statistical information.

There has been some criticism of the statistical and actuarial work of the Treasury Department; but I wish to say that since I have had the honor to be a Member of the United States Senate, I have never questioned the integrity or the accuracy of the actuarial data furnished by the Treasury Department. This was true even of the time when the Department was dominated by Mr. Mellon, and was completely out of harmony and sympathy with every idea and theory I have about taxation. I wish to say, furthermore, that I have inquired of reputable actuaries in private life, and they vouch for the fact that Mr. McLeod is a man of the highest scientific and professional attainments.

Mr. SHIPSTEAD and Mr. TYDINGS addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield; and if so, to whom?

Mr. LA FOLLETTE. I yield first to the Senator from Minnesota.

Mr. SHIPSTEAD. Mr. President, the same actuaries naturally would find different answers to different problems. I take it that the Senate committee presented to the actuaries a different problem than the one which has been presented here by the Senator from Wisconsin.

Mr. LA FOLLETTE. The only part that the Treasury actuaries played in the Senate committee's work, or in connection with the amendment which the Senator from Alabama [Mr. BLACK] and I have offered, was to furnish figures as to the revenue which the Treasury estimated would be yielded if any particular proposed plan were enacted into law. The material upon which these charts are based is very exhaustive statistical information in the possession of the Treasury Department, and it has been broken down into this form after very thorough analysis and study.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. TYDINGS. I asked the Senator the question I did merely in order to ascertain the authority upon which he predicated his remarks and not in any way as reflecting on either the Senator or anyone who has supplied him with the information. I merely wished to have the Senate know the basis of the figures.

Mr. LA FOLLETTE. I made my statement because some of the witnesses before the committee attacked the soundness of the actuarial data; and after that was done, as I stated a moment ago, I took it upon myself to inquire of some of the best-known actuaries in this country who are in private occupations. All of them state that Mr. McLeod would not permit the policy of any administration or any Secretary of the Treasury or anyone else, in or out of the Government service, to influence him in furnishing statistical and actuarial information.

Mr. President, I do not wish to dwell too long on another aspect of the situation, and I fear that this chart [indicating] is perhaps not easily seen across the Chamber; but what it attempts to do—and I call the chart to the attention of any Senator who is interested in looking at it—is to give in greater detail, by income-tax brackets, the information that is shown in black and white on the chart to which I have been referring.

Mr. BYRD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from Virginia?

Mr. LA FOLLETTE. I do.

Mr. BYRD. The Senator has read figures from a chart which assumes that all earnings will be distributed in dividends. Does the Senator contend that the amendment he has offered will compel the distribution of all earnings in dividends?

Mr. LA FOLLETTE. I have made no such statement, and no such inference is to be drawn from anything I have said. I made the very careful statement, before I even referred to the charts, that they were not intended for any purpose in connection with any of the amendments which have been offered, the Senate committee amendment, or the bill as it passed the House. I said that they were simply designed to show the extent of the opportunity for tax avoidance which exists, and which I think every Senator on the committee admits exists, between the higher individual income-tax brackets and the flat corporation-tax rates.

Mr. BYRD. The so-called tax evasion to which the Senator refers——

Mr. LA FOLLETTE. I call it "avoidance."

Mr. BYRD. Well, avoidance—will not be remedied by the amendment offered by the Senator.

Mr. LA FOLLETTE. I think, if the amendment offered by the Senator from Alabama and myself were to be adopted, it would go a long way toward remedying it.

Mr. President, I now desire to point out briefly the difference between the proposal which has been offered by the Senator from Alabama and myself and that offered by the Senate committee. When this question first came before the Committee on Finance a great deal was said about the small corporation. The argument was made by some members of the committee, and later by witnesses who appeared before the committee, that the bill as it passed the House provided harsh treatment for small corporations; that it extended great favoritism to large corporations, and especially to those which had accumulated tremendous surpluses.

I do not think those contentions are sound; but assume that they are, for the sake of the argument. Protection of the small corporations was the premise from which a majority of the Finance Committee started out to provide a substitute for the corporation-tax features of the bill which passed the House. Yet the net result of their weeks of effort is the recommendation of a proposition by a majority of the committee which, if it is written into law, will tremendously penalize the great majority of the small corporations of the Nation and operate to improve the competitive advantage of the large corporations.

Personally I do not think the Congress should be concerned with the competitive situation, so far as the imposition of taxes is concerned. I am sure that if someone came forward with a naked proposition that we ought to classify corporation A, which is manufacturing a product, in one classification, and corporation B, which is a competitor, and manufacturing the same commodity, in another classification, every Senator would reject it; so I do not attach much significance to that phase of the argument. I only indicate that Senators should hesitate a long time, in the face of this acknowledged situation which exists so far as tax avoidance of those who are in the high individual income-tax brackets are concerned, before accepting, in lieu of an effort to correct the existing situation, a provision which would fall harshly upon the small corporations.

Mr. BAILEY. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. BAILEY. I think the position of the majority of the Finance Committee, with respect to the subject matter of the remarks now being made, touching the question of discrimination against small corporations, related particularly to a point which I am bringing forward in order that the Senator may discuss it. Take, for example, the small corporation which is in debt, and compare it with a large corporation which is not in debt. Is it not a fact that the surtax rates proposed would tend to prevent the small corporation from paying its debt, and therefore handicap it in

the matter of competition with the larger corporation which does not owe?

Now, one other step. Take the small corporation which has no surplus, and compare it with a large corporation which does have a surplus. Is it not true that the surtax rates proposed in the pending amendment would tend to prevent the small corporation from acquiring a surplus, and not affect the right of the large corporation to hold its surplus, and if that be so, would not that be a very bad public policy, in that it would inure greatly to the advantage of the large corporation and very greatly to the disadvantage of the small corporation?

Mr. LA FOLLETTE. Mr. President, the Senator has given me a hatful of questions all at one time. I will try to remember them and answer them seriatim.

First, the Senator asked me whether a small corporation in debt would not be put at a competitive disadvantage with a large corporation which was not in debt under the bill as it passed the House.

Mr. BAILEY. Under the pending amendment, the Black-La Follette amendment, not under the bill as it passed the House.

Mr. LA FOLLETTE. Since I mentioned the House bill, I desire to point out that the House attempted to meet the situation by providing a cushion provision as to corporate indebtedness.

The amendment which we have offered will enable small corporations which are in debt, insofar as is possible for a small corporation in such circumstances, to compete with large corporations which are not in debt. Obviously we cannot remedy the inherent advantage which a great corporation has over a small one, unless we are willing to use the tax mechanism to break up large corporations; and no one has made any such suggestion as that in connection with the pending bill.

Mr. BAILEY. Now, on that point——

Mr. LA FOLLETTE. Just let me answer the Senator's questions which I have in mind now, and then I shall be glad to yield to him.

It all depends on what the Senator means by a "small corporation." When we first started discussing this question in the committee, the corporations I heard about were the really small ones. Now the small corporations I hear about are those which have a million dollars or more of net corporate income, and that is statutory net income, after all the liberal deductions which are permitted by the existing income-tax law have been made.

Under the amendment of the Senator from Alabama and myself, in the first place, all corporations in the United States making $15,000 or less of statutory net income would not be affected by the tax provided in the amendment at all, and that means 220,000 of the corporations which are operating in this country today.

In the second place, corporations having a larger statutory net income than $15,000 a year under our proposal would likewise be privileged to take $15,000 out of their adjusted net income, or their statutory net income, before any tax on undistributed net income would apply, and then they would be permitted to take off another slice of 20 percent before any such tax would apply.

I contend, therefore, that we give the small corporation a better advantage than does the Senate committee bill, and I do not think any amount of argument can disprove that fact.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. One at a time; let me answer the questions which have been asked before any more pile up.

The Senator from North Carolina asked me another question, and I shall attempt to answer it as I recall it, and if I have not remembered the Senator's question correctly, I hope he will inform me. I think the Senator asked me whether the amendment now pending would not work a great hardship against a small corporation which is attempting to compete with a large one which has accumulated a huge surplus.

Mr. President, there is no way on earth that I know of by which to remedy that inherent situation.

No lawyer has come forward with any proposition whereby we could tax the surpluses accumulated in the past. All the lawyers of whom I know have said that is constitutionally impossible. Under the amendment which we have offered I contend that the small corporation, insofar as the imposition of tax is concerned, would be in a better position to compete with the large corporation than it would be under the bill sponsored by the majority of the committee, because the bill proposed by the majority jacks up the flat tax rate 3 percent in every bracket, without regard to the situation of the corporations, so far as any competitive factors growing out of largeness and smallness are concerned. The committee provision has only one cushion, and that is the one providing for retention of income in the case of existing written contracts not to pay dividends. Therefore the committee bill hits the small corporations, about which we have heard so much, squarely between the eyes, because it jacks up their flat corporation tax rate 3 percent in every bracket.

Mr. COUZENS. That would be a 20-percent raise.

Mr. LA FOLLETTE. That is true. I may say that a 3-percent raise in actual tax load is a 20-percent increase in the percentage of payment. I do not criticize any Senator defending and supporting the committee's bill, or who believes that bill is better than the proposition which we put forward; but I think that after deliberate, mature consideration no person can come to the conclusion that the amendment offered by the Senator from Alabama and myself does not provide very much more generously for the small corporation than does the committee bill.

Mr. BYRD. Mr. President, will the Senator yield?

The Senator has prepared a chart relative to a $100,000 corporation. If I am correct, in the case of a $100,000 corporation which makes a 100-percent distribution of income, the tax would be $14,420. If by reason of debt or by reason of necessity for accumulating a liquid surplus there is nothing distributed, the tax on such a $100,000 corporation would be $28,763. In other words, the corporation which is obliged to pay its debt and accumulate a surplus has to pay twice as much as the corporation which pays out all of its income in dividends.

Mr. LA FOLLETTE. Mr. President, let us compare that situation with the picture presented by the bill of the majority of the committee. I wish first to reemphasize—and I hope Senators will appreciate the significance of the statement—that statutory net income is not the ordinary kind of net income that one thinks of when he receives a statement from a corporation or when it is printed in newspapers. This country is more generous and liberal in its allowable deductions before arriving at statutory net income than is any other country of which I know that makes use of the income tax. The difference between the bill which the Senator from Virginia is supporting and the amendment which I am supporting on a 100-percent retention of statutory net income is a difference of some $5,000 in tax. So he is taking the worst possible situation, namely, that of a corporation which would not pay out a nickel in dividends, and yet from such a corporation the amendment would take only about $5,000 more in tax than would the committee's bill.

Mr. BYRD. Mr. President, may I again interrupt the Senator at that point? The Senator, I think, understands that under the plan he advocates there is a 100 percent difference in tax on a corporation earning $100,000 that pays out everything, as compared to one paying out nothing. Under the bill advocated by the Senate Finance Committee there is a difference of only 33 percent between the corporation that pays out everything and the corporation that is unable to pay out anything.

Mr. LA FOLLETTE. I am afraid the Senator from Virginia is leading the Senate into the same difficulty into which I think the committee fell. The committee began looking at percentages of tax. It began stating the tax in the form of percentages instead of looking to see what the

corporation was going to pay when it made out its check to the Treasury of the United States.

Corporations and individuals in this country do not care what the percentage of tax may be. What they are concerned with is the amount of money they have to pay into the Treasury. Under the Senator's proposition, which is the committee's bill, in the case of 100-percent retention, that is, not a dollar of dividends paid, there is imposed a tax of $23,219.20 and our proposal would levy a tax of $28,763, or a difference of some $5,000.

Furthermore, I should like to point out another thing which I had not intended to discuss at this point, but I think it is one of the important features of the pending bill. It is recognized that under the measure now pending before the Senate if a corporation is in the situation to which the Senator from Virginia makes reference, and desires to retain every dollar of its statutory net income for the purpose of meeting its debts, or for the purpose of meeting the exigencies of business, or of further expansion and development, it is in a position to do so without paying an additional penny of tax, if it will only pay out to its stockholders dividends which the Supreme Court in a recent decision has indicated are taxable in that form in the hands of the individual. So I think that all the talk about the difficulty confronting corporations under any one of these tax propositions is unjustified.

On what theory can anyone argue that a corporation that desires to retain 100 percent of its statutory net income should not give to the stockholders who own it, evidences of that statutory net income? Each and every one of them owns his proportionate share of the earnings according to the stock held in the corporation.

Mr. President, from much of the argument advanced concerning this question one would think that a corporation was a separate entity, floating in midair like Mohammed's coffin; that it was not connected with individuals, and that, too, despite the fact, that the Supreme Court of the United States has said that a corporation is a person and entitled to all the rights and privileges which extend to a person. A corporation is a device whereby a group of people come together to do something jointly which they feel they can do better through that instrumentality than they can by a partnership or by operating severally and not in cooperation with each other.

Corporation A, let us say, has $100,000 of statutory net income. Let us say it is in debt up to its eyebrows. If it wanted to retain that statutory net income it could under the House bill, the Senate committee bill and our amendment, retain every dollar of it, and not pay any additional tax in the form of an undistributed-profits tax. The corporation would just pay out to its stockholders evidences of the accumulation of such net earnings in a form which would be taxable under the sixteenth amendment to the Constitution.

Of course, the individual stockholders would have to include the dividend in their income. But why should they not? Will some one tell me wherein there is any theoretical difference between the obligation and the liability of a dollar of profit made by a cooperative enterprise through a corporation to pay its just and fair share of the burdens of Government, including the cost of war and depression, and the similar obligation of a dollar of individual net income flowing into the hands of an individual citizen of the United States?

Mr. BAILEY. Mr. President, will the Senator yield? I do not like to interrupt the Senator.

Mr. LA FOLLETTE. I am glad to yield to the Senator.

Mr. BAILEY. I am not going to interrupt the Senator much more. I was calling attention to the discrimination as between a debtor corporation and a nondebtor corporation. The debtor corporation which makes $100,000 this year and applies the money to its debts would have to pay to the Government $28,763.26 under the amendment of the Senator from Alabama and the Senator from Wisconsin. These are the Treasury statistics. I got them from Mr. Parker, I should say.

Mr. LA FOLLETTE. Yes; they are the same ones that we have.

Mr. BAILEY. Yes. But a nondebtor corporation making $100,000 this year and declaring it out in dividends would have to pay nothing.

Mr. LA FOLLETTE. Oh, no; not nothing. It would pay $14,400.

Mr. BAILEY. It would pay nothing except the normal tax.

Mr. LA FOLLETTE. It would pay the normal tax.

Mr. BAILEY. However, it would pay nothing by way of supertax.

Mr. LA FOLLETTE. That is correct.

Mr. BAILEY. All right. Your supertax is 30 percent in the higher brackets. There is the penalty. Can the Senator square his argument with public policy in so arranging his tax proposal that the debtor corporation is penalized for paying its debts while the nondebtor corporation is free from tax, and on the same principle the corporation with no surplus would have to pay a tax in order to accumulate a surplus; and when its income was carried to surplus, and not paid out, it would have to pay a tax? But the corporation on the other side that has a surplus and can afford to pay out its profits pays nothing. In all seriousness I am going to say to the Senator that is not unjustified argument. That is a serious question.

Mr. LA FOLLETTE. I wish to withdraw any inference that the arguments of any Senator were unjustified. I credit every Senator with the same or with greater ability than I have. All I was referring to was the testimony by witnesses before the committee and to the arguments in the newspapers, which would seem to indicate that the country was on fire with the idea that the principle of taxing undistributed profits involved a terrific amount of difficulty for corporations that were in debt, and small corporations.

After listening to all the arguments, after reading all the propaganda, after listening to all the witnesses, and after making the best impartial study of which I am capable, I wish to say that the arguments did not make any impression upon my mind. I say that the apprehension is predicated upon an erroneous assumption. Each corporation in such a situation can pay out stock dividends which will be taxable. We will have taken a great stride forward when we make certain that the stockholders of corporations shall get either evidences of their additional share in corporation profits in the form of taxable stock dividends or cash dividends.

Mr. BAILEY. Mr. President——

Mr. LA FOLLETTE. I yield to the Senator from North Carolina.

Mr. BAILEY. I wish to say to the Senator that I knew he meant no offense and none of us took offense. I was simply repeating his word.

I wish to tell the Senator further that the whole Senate is against him in one judgment he rendered just now, to the effect that he thought every Senator here was superior to himself. I am going to tell him that there is no Senator here who is superior to him.

Mr. LA FOLLETTE. I appreciate very much what the Senator says.

Mr. BAILEY. And I know that is the sentiment of the whole Senate.

Now, to come back to our point—and with this I am going to be satisfied—the Senator is really contending that a tax law which makes it difficult for a corporation to pay its debts does not really discriminate against such debtor corporation in favor of the nondebtor corporation, and is contending further that a tax law which makes it difficult for a corporation which has no surplus to acquire a surplus does not discriminate against that corporation in favor of one that has a surplus. There is where we divide; but I respect the Senator's judgment; and I think I have stated the case.

Mr. LA FOLLETTE. I do not agree with the Senator. So long as a corporation is in a position where it can retain every dollar of its statutory net income by paying out a stock dividend in such a form that it will be taxable in

the hands of individual stockholders it cannot be contended that it is in a difficult situation so far as its debts, so far as the exigencies of business, and so far as the expansion of the business are concerned. In my opinion, it is a great step forward.

In the second place, I may say, in answer to the Senator from North Carolina, that I have heard much about corporations that have accumulated huge surpluses. Of course they have accumulated them; they have accumulated them under a tax system such as we have today; and, if nothing is done to change that system, the same corporations will go on accumulating greater and greater surpluses until we will have a situation not such as we had in 1933 when 67 corporations had one-third of the total corporate income of the United States, but we will have a fewer number of corporations and we will find them with a very much larger slice of the corporate income every year.

While we cannot pass retroactive legislation, and go back to the point where we can tax the accumulations of the past, at least we can so provide as to the future that corporations shall not be permitted to continue to accumulate vast surpluses without paying their just share of the taxes, and to that extent we can make it easier for small corporations to compete with them. If this amendment is adopted, new enterprises will spring up in this country and compete with the older and larger institutions that have lined their coffers with fat surpluses without paying anything but a flat tax to the Government while they were doing it.

Mr. BLACK. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from Alabama?

Mr. LA FOLLETTE. I yield.

Mr. BLACK. I wish to add a suggestion to what the Senator from Wisconsin has said in response to the Senator from North Carolina. If there is discrimination such as the Senator mentions, the identical discrimination exists in the Senate committee bill except in an exaggerated form as to small corporations, because the discrimination which he mentions applies to all corporations, while ours completely exempts every corporation making $15,000 profit. The figures also show that the corporation making practically up to $50,000 pays a smaller surplus tax under our amendment than under the committee amendment.

Furthermore, all this talk about the $100,000 corporations really refers to corporations with profits of $100,000.

Mr. LA FOLLETTE. Certainly.

Mr. BLACK. So that when we speak of corporations having profits of $100,000 we really have reference to million-dollar corporations. What I wanted to make clear was that, so far as discriminating against the small corporation is concerned, there is no such discrimination in our amendment, because by it the small corporations are expressly exempted up to $15,000 and also on an additional $20,000. They have to get up to where they make as much as $50,000 profit before the tax in our amendment, even in the higher brackets, equals the tax under the Finance Committee bill.

Mr. GERRY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from Rhode Island?

Mr. LA FOLLETTE. I yield.

Mr. GERRY. The Senator was referring to the small corporation.

Mr. LA FOLLETTE. I did not start that discussion. It was started by the majority of the committee when we first saw the bill.

Mr. GERRY. I thought it was started by the Treasury. They talked about the small corporations. There is only one thing I want to say as to that, and that is that when they refer to the small corporation they refer to a corporation with a small income.

Mr. LA FOLLETTE. That is clear.

Mr. GERRY. Of course, we have tremendously large corporations that for some time have had no income, although I know they do not constitute the majority of cases.

Mr. LA FOLLETTE. I do not think I made any statement in which I have not made it plain that I referred to small corporations with small net incomes.

Of course, there may be large corporations with small net incomes.

Mr. GERRY. Yes; or losing money.

Mr. LA FOLLETTE. Yes; losing money, because the Congress and the Treasury Department have been so liberal in the deductions allowed for depreciation, bad debts, and other things, that there are some large corporations in this country which show a comparatively small statutory income. The fact remains however, as I think everyone will concede, that usually the very small corporation, with small earnings, is one which actually has a small capitalization.

Mr. GERRY. That is usually the case.

Mr. LA FOLLETTE. Yes; of course it is.

Mr. GERRY. But, if the Senator will permit me, he will remember that there appeared before the committee a witness who at one time I think was an officer of a corporation which had very large earnings and which paid out practically all its surplus with the result that that corporation is now in the hands of a receiver; the banks are really controlling it, because the only way they can keep the corporation going is by their ability to borrow, and to try now to accumulate a surplus in the hope of getting it on its feet.

Mr. LA FOLLETTE. Just one statement in answer to that suggestion. There is no way in the world, Mr. President, to devise a tax system which will protect from bad management the investment of individuals who take stock in corporations. No tax system can be devised that will prevent some people who control huge corporate surpluses from using them for unsocial purposes. During the so-called boom one of the great sources of credit that helped to increase the forced draft under the boiling cauldron of the stock market and helped to carry that market up to the point where when it collapsed it shook the entire economic foundation of these United States, was the accumulation of corporate surpluses, which were loaned on call in New York, especially when call money could obtain 15, 18, or 20 percent. Corporate surpluses went into pools, which were sometimes organized in the very stock of the corporation from which the surplus came. Boards of directors and officers who were receiving huge salaries presumably for devoting their integrity, their intelligence, and their experience to the safe management of the collected funds of their stockholders, were using the corporate surpluses to organize pools in the stocks of their corporations and were manipulating the prices.

The insiders of these pools got in at the bottom price and sold out at the top, dumping fabulously inflated stock values into the hands of unsuspecting investors. Many able economists attribute some of the excesses of the boom and inflationary period to the accumulation of large corporate surpluses. More than $8,000,000,000 came into the stock market in 1929 from sources outside of the Federal Reserve System. One-half of the $16,000,000,000 used in that wild orgy of speculation came from corporate surpluses and from other sources.

All during that period we had a great deal of lip service from the management of the corporations which had these huge surpluses, to the effect that they believed wages should be increased so that the buying power of the public could keep step with our ever-increasing capacity to turn out manufactured products; but it was only lip service. To a large extent they did not put their theories into operation, for, as a matter of fact, real wages, measured in the terms of what a man or a woman could produce in a day's work at a machine, were falling from 1921 to 1929, with the exception of two industries, transportation and construction.

Let us not proceed on the theory that all corporate surpluses are beneficial either to the corporations themselves which accumulate them, or to the wage earners, or to the public in general.

Furthermore, Mr. President, I think it was clearly demonstrated before the committee by a Treasury witness that

even during the depression the great proportion of the corporate surpluses were not used for the purposes for which it was claimed they were used. It was claimed they were used to provide employment and carry men upon pay rolls, but the figures given the committee tell a contrary story. I quote from Mr. Haas:

> During the 3 years, 1931–33, inclusive, the aggregate net losses after taxes of those nonfinancial corporations that reported no net income amounted to $12,100,000,000; but $9,500,000,000 of this aggregate deficit, or 78 percent, represented valuation deductions, primarily, rather than cash operating disbursements in excess of cash receipts. It should be borne in mind, moreover, that a corporation is included in the deficit group only in those years in which it reports no net income; so that the figures that I have just cited include the losses of all corporations during their worst years of the depression, and do not include their net income, if any, in other years of the depression.

Mr. President, I do not wish to be put in the position of saying I am opposed to the accumulation of reasonable corporate reserves. I am not. It would not be prohibited under our amendment. As a matter of fact, it would not even be prohibited under the bill as it passed the House. But if corporations desired to retain their profits under the terms of the bill as it passed the House to a more drastic extent, under our proposal to a much less extent, or even under the Finance Committee proposal to a small extent, they would have to pay a tax upon the dollars of net statutory income which they accumulated from year to year.

I again ask, Mr. President, why should a dollar in the form of net income made by a corporation be permitted to pay a very low flat tax when, if that dollar of corporate income were paid out in the form of dividends, it would have to pay a very high tax in the hands of the individual? Theoretically I can see no reason why dollars which are made in profits and which remain in the hands of corporations should not pay their fair proportionate share of the revenue which the Government requires, just as we ask every individual to pay upon every dollar of net taxable income which he receives.

Mr. BAILEY. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield to the Senator from North Carolina.

Mr. BAILEY. I am in full sympathy with the objective sought by the Senator from Wisconsin, but I am still unable to understand his point with reference to adverse discriminations. I invite his attention to a manufacturing concern making $100,000 of net income. It is in debt. It applies $100,000 to its debt. Under the Senator's plan it would pay the Government $28,763.20 taxes. Against that is a similar corporation with $100,000 of net income, which has a surplus and therefore can pay out its net income in dividends, and its tax is only $17,440. There is a difference of $11,300 in favor of the nondebtor corporation and against the debtor corporation. Is not that discrimination and is not that a handicap?

Mr. LA FOLLETTE. No; I contend it is not, because the corporation which is in debt can retain every dollar of its net taxable income. It can pay out taxable stock dividends to its stockholders and retain every dollar of money that it has made that year. How can that be any discrimination? How can it be a hardship to anybody, either the corporation or the individual stockholder? Is it not just that the individual stockholders of the corporation should take up the earnings in their income taxes, or else that the corporation should pay something to the Government out of the money it makes each year?

Mr. BLACK. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from Alabama?

Mr. LA FOLLETTE. I yield.

Mr. BLACK. Let us suppose the same corporation, which is making $100,000 net income, had a surplus and that it can borrow money on it and can follow the law and issue stock dividends. Is it not discrimination for the Senate Finance Committee to make that poor, struggling, debt-ridden corporation pay $17,440 as against $14,440, as would be required under our proposal? Is it not also a terrible thing for the Finance Committee to require such corporation to pay $19,000 as against $14,000 under our proposal?

Mr. LA FOLLETTE. Furthermore I emphasize again that we are talking about statutory net income and not about the capitalization of corporations, because, as suggested by the Senator from Alabama, when a corporation has $100,000 of statutory net income, with all the liberal deductions provided in our income-tax system, it is, generally speaking, a big corporation so far as its capitalization is concerned.

Let us take a corporation with $40,000 statutory net income and compare its treatment under the Finance Committee proposal and under our pending proposal. If the corporation distributed no dividends at all, under the Senate Finance Committee proposal it would pay $8,975.20 and under the proposal we have submitted it would pay $8,543.20. If it distributed all of its statutory net income, under the Finance Committee proposal it would pay $6,640 whereas under the proposal we have submitted it would pay only $5,440. So in the case of a corporation with $40,000 of net statutory income, or with less, our proposal would impose a smaller tax than would the Finance Committee's proposal.

In addition to that, we do not ask for a dollar of increased taxes from 90 percent of the corporations in the United States, because 90 percent of them make $15,000 or less statutory net income every year, and under our proposal they would be exempt from the undistributed-profits tax, while under the Finance Committee proposal they would not be exempt.

Under the Finance Committee's proposal, a tax of 7 percent would be levied upon the undistributed profits of struggling corporations that the majority of the committee keep talking about just as huge corporations would pay 7 percent upon their undistributed profits and yet the majority of the committee contend that they are trying to remedy the competitive situation which exists between huge aggregations of corporate capital and small, struggling enterprises.

Mr. LEWIS. Mr. President——

The PRESIDING OFFICER (Mr. RUSSELL in the chair). Does the Senator from Wisconsin yield to the Senator from Illinois?

Mr. LA FOLLETTE. I do.

Mr. LEWIS. Will the able Senator from Wisconsin make clear to me what he means by the expression "statutory net income" as distinguished from net income after paying the expenses of any business?

Mr. LA FOLLETTE. Mr. President, the distinction I was trying to make is that net income as it appears in the financial statement of a corporation may be something very different from the statutory net income which appears on its income-tax return, for the simple reason that very liberal deductions are allowed under our income-tax law before arriving at a corporation's statutory net income upon which the tax is predicated. It is allowed to take out very liberal and generous items for depreciation. It takes out its bad debts. It takes out interest on Government bonds which it owns. It takes out a myriad of exemptions and deductions before the Government determines that it has any net income to be taxed. So I emphasize and repeat that a corporation which has $100,000 of statutory net income in its coffers at the end of the year, generally speaking, is a pretty husky and lusty corporation.

Mr. O'MAHONEY. Mr. President, may I interrupt the Senator at that point?

Mr. LA FOLLETTE. I yield to the Senator from Wyoming.

Mr. O'MAHONEY. In his discussion of the proposed amendment, has the Senator pointed out the fact that according to the reports compiled by the Bureau of Internal Revenue, in 1932, 392,000 corporations filed returns showing assets of about $280,000,000,000; and of those 392,000 corporations, 618 corporations controlled more than 53 percent of all the assets?

Mr. LA FOLLETTE. I appreciate those figures very much because they help to drive home the argument I am attempting to make.

Mr. O'MAHONEY. I thought they might.

Let me call the attention of the Senator also to the fact that the same source shows that in 1932, 73,291 corporations in the United States had net incomes. Of that number, 201, or less than one-half of 1 percent, reported more than half of all the income; and 9,099 corporations having assets of more than $500,000 had almost 90 percent of all the income of all the corporations in the United States.

Mr. LA FOLLETTE. The Senator's figures tell the story. They buttress the position taken by the President in his message when he asked the Congress to consider this principle of taxation.

Now, I desire to make reference to a statement made by the Senator from Georgia [Mr. GEORGE] in opening the debate upon this section of the bill.

The Senator from Georgia stated, as I understood him, that the only source of corporate expansion was either reserves in the hands of corporations or savings in the hands of individuals. Insofar as the future is concerned, there are adequate and ample resources upon which to draw for the legitimate expansion and development of industry.

In 1929 the total daily average member banks' reserve balance was $2,358,000,000. This was the basis upon which credit could be pyramided 10 times, as every Senator knows, under the Federal Reserve Act, so that there were potential credit resources of $23,580,000,000 in 1929; and that credit carried the transactions of the largest economic operations in the history of the country, with the possible exception of the war.

Mr. GEORGE. Mr. President——

Mr. LA FOLLETTE. Pardon me just a moment. Let me finish, and then I shall be glad to yield to the Senator.

Today, Mr. President, the total daily average member banks' reserve balance is $5,638,000,000, upon which could be pyramided, if it were needed, credit of $56,380,000,000. In other words, we have more idle, unemployed dollars and credit in the United States today than at any previous time in all the history of the Republic. So I have no fear that if the proposition we have suggested were accepted, and a genuine attempt were made to meet this problem of tax avoidance, there would not be ample credit resources available for the conduct and for the expansion of business.

Now I am glad to yield to the Senator from Georgia.

Mr. GEORGE. Mr. President, I should like to have the Senator explain how the money is to be gotten out of the banks unless it can be paid back, and unless the prospective borrower can make a credit statement that the bank will regard as entitling him to credit. I should like to call the Senator's attention to the fact that if the credit statement does not show savings or surplus, or at least the ability to accumulate it, I do not know of any bank in this country that would make a loan to a corporation for any purpose.

Mr. LA FOLLETTE. My answer to the Senator is the same answer I have made to the Senator from North Carolina [Mr. BAILEY] and the Senator from Virginia [Mr. BYRD], that under all these measures—under the House bill, under the Senate committee bill, and under this amendment—any corporation desiring to retain 100 percent of its statutory net income free from increased tax may do so by paying out to its stockholders a dividend which is taxable under the sixteenth amendment.

Mr. GEORGE. Mr. President, that brings up a matter which it seems to me the Senator ought to be able to see, namely, that then there would be created in this country a vast number of corporations with nothing in the world but watered stock.

Mr. LA FOLLETTE. I do not agree with the Senator that it is water.

Mr. GEORGE. I should not expect the Senator to agree, but that is the logic of it.

Mr. LA FOLLETTE. I do not agree it is logical.

Mr. GEORGE. If a corporation is going to keep money that it needs to meet an indebtedness and yet issue a certificate of indebtedness in the form of stock, whatever kind of stock may be issued, it is obvious that it is nothing but water; and I think that suggestion cannot commend itself to any business mind anywhere.

In addition to that, let me call the Senator's attention to the fact that if A is the owner of a small block of stock in a corporation and it is all the property A has, and he is entitled to three or four thousand dollars of dividend, and in place of a dividend he receives a piece of paper, and he has to go to a bank and borrow the money to pay the tax upon the piece of paper he receives, the more dividends of that kind he receives the worse off he will be; and if the practice should be pursued, which is suggested by those who offer this substitute, of issuing a stock certificate for a dividend and letting the corporation keep whatever money or whatever property it has, certainly that policy would bring stocks into such a condition upon the open market as that they would become practically worthless.

Mr. LA FOLLETTE. I do not agree with the statements made by the Senator from Georgia.

In the first place, I do not agree that a stock dividend paid out to represent an adjusted net income represents water. In proportion, it represents the actual profits which the collective enterprise, operating through the corporate entity, has made on behalf of its stockholders.

Mr. GEORGE. Yes; but the purpose of issuing the dividend is to take the money out of the corporation and pay it out on a debt, so there is nothing left.

Mr. LA FOLLETTE. Just a moment. Let me answer the Senator's questions one at a time. I cannot answer them all at once.

Mr. GEORGE. If it is going to trouble him at all, I will withdraw it.

Mr. LA FOLLETTE. It does not trouble me a particle, but I desire a chance to answer one question before I am interrupted with another.

Mr. GEORGE. Very well; I shall not interrupt the Senator again.

Mr. LA FOLLETTE. I do not object to being interrupted, but I should like to have a chance to answer; that is all.

Mr. President, one of the great difficulties growing out of the economic crisis was the fact that so much of the corporation indebtedness was represented in the form of an excessive proportion of bonds as against stocks; and when the depression came on, stockholders in many instances were in a position where they could not get any dividends, but the bondholders were in a position to take the assets of the corporation under foreclosure or a receivership. If the enactment of this measure would result in reducing some of the excessive bonded indebtedness of our industrial corporations, and if in its stead there were in the hands of individuals stocks which represented claims upon the actual earnings of the corporation, our corporate structure would be much sounder than it is today. The sooner this happens, the better off we shall be. In another major economic crisis with the proportion of bonded indebtedness the corporations have today the liquid claims upon the actual physical properties of the mechanisms of production in this country will be so gigantic that if those claims are enforced it will paralyze our economic life.

Increase in the value of stocks, as they are held in the hands of individuals, is due largely to the earnings of corporations. If the corporation is not a profitable enterprise, of course the stock is bound to go down.

Mr. President, the issue involved in our amendment is very plain. It is a question of whether there is a desire to lay the additional tax burden upon those who have enjoyed the greatest increased income, namely, those who hold the claims upon corporation profits.

Senators must say by their votes whether they are willing to plug up the opportunity for tax avoidance which is presented under the existing law, and which is intensified and will be continued under the Senate committee proposal if it shall be enacted.

So far as I am concerned, there is only one side to this controversy which will serve the public interest.

Steps must be taken to remedy the acknowledged injustice and inequity in our present income-tax system. The loophole which is available to those in the higher income-tax

brackets, who wish to avoid the payment of their fair share of taxes, must be closed.

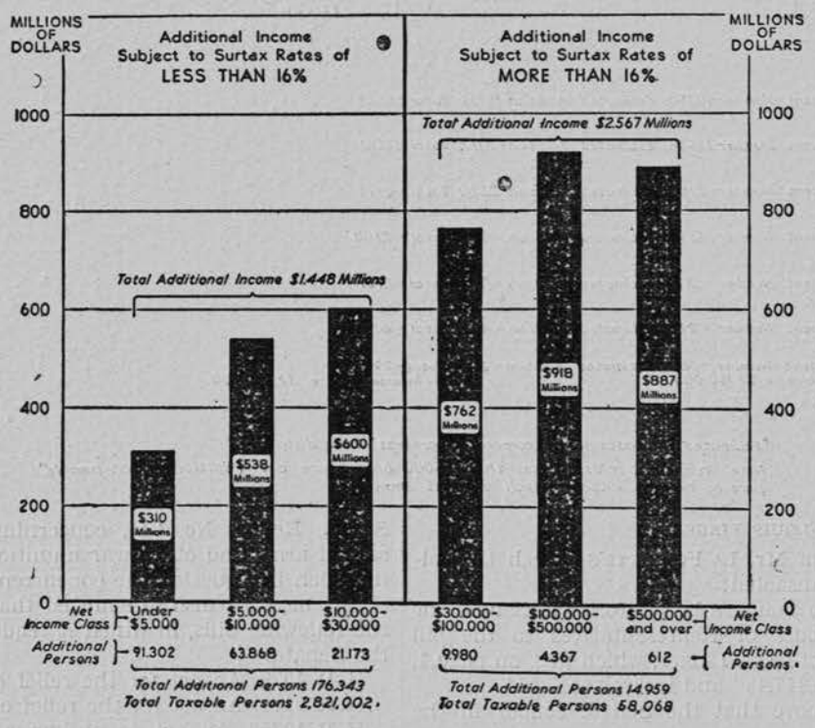
This proposal may not be enacted into law at this session, but when the people of the country come to understand the issue there will be no way in the world of preventing its being written into law in order that our tax system may once more be made equitable and just. The people will demand a system under which the taxes, whatever they may be, will be levied upon our citizens and upon our corporations in such a way that taxes will be levied and collected in accordance with ability to pay.

Mr. President, I ask unanimous consent that I may incorporate in my remarks an illustration found on page 27 of the hearings of the Committee on Finance, indicating additions to taxable incomes of individuals, and another chart indicating distribution of individual net incomes.

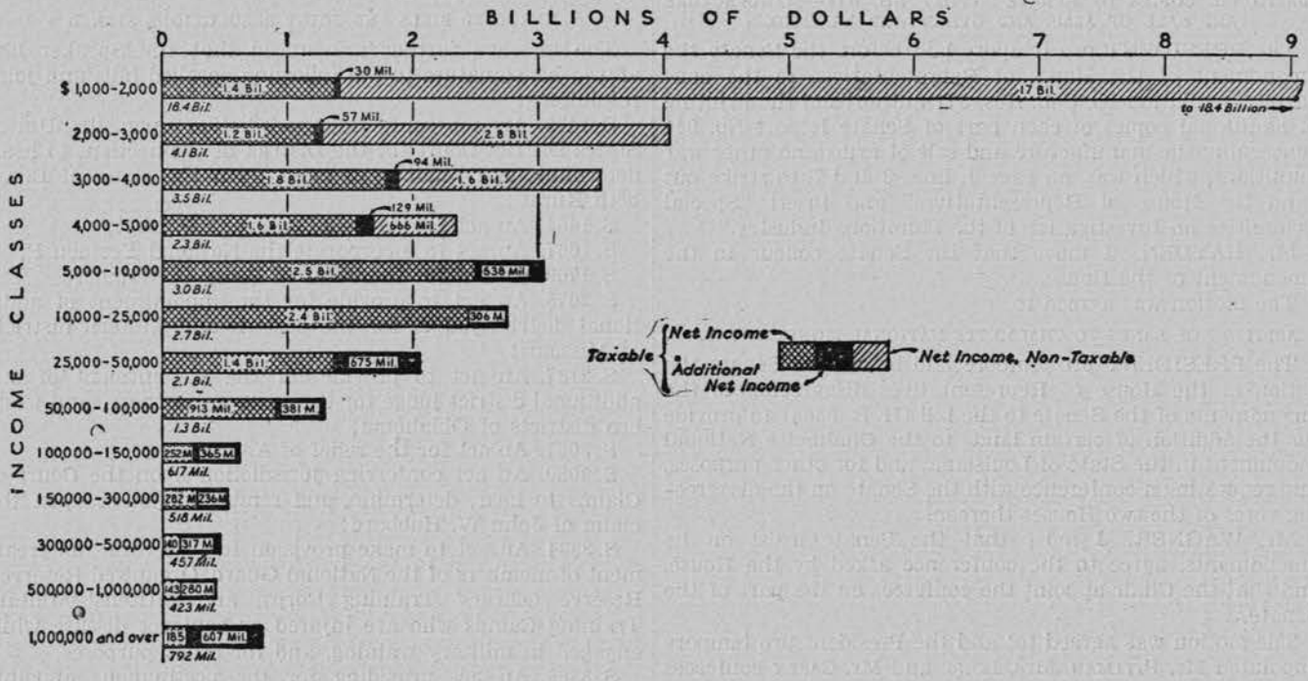
There being no objection, the charts were ordered to be printed in the RECORD.

ADDITIONS TO TAXABLE INCOMES OF INDIVIDUALS

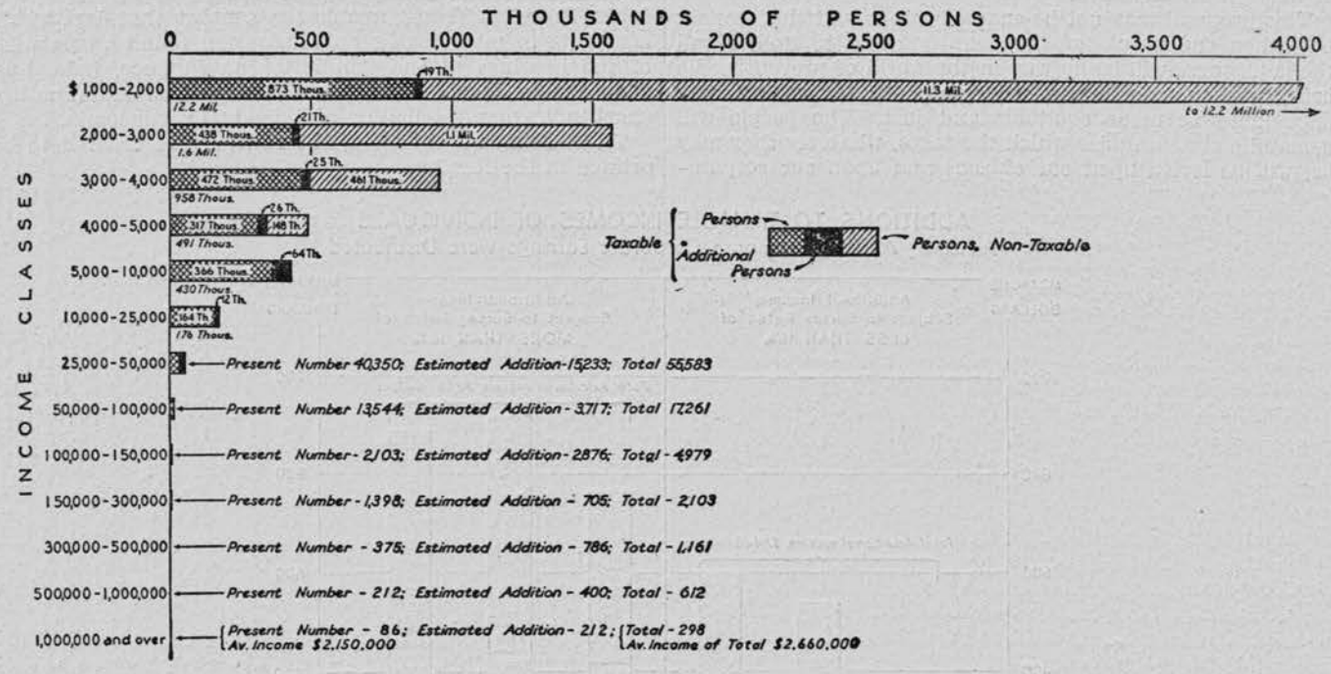
Assuming All 1936 Estimated Corporate Earnings Were Distributed



DISTRIBUTION OF INDIVIDUAL NET INCOME



NUMBER OF INDIVIDUALS IN EACH CLASS



*Estimated increases if all corporate earnings were distributed

Note: In income classes less than $5000 only, there are additional "non-taxable" persons or net income which are not shown.

LOUIS FINGER

During the delivery of Mr. LA FOLLETTE'S speech the following business was transacted:

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 1073) for the relief of Louis Finger, which was, on page 1, line 6, to strike out "$1,347.48" and insert "$347.48."

Mr. BULKLEY. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

ADDITIONAL COPIES OF SENATE REPORT NO. 944—MANUFACTURE AND SALE OF ARMS AND OTHER WAR MUNITIONS

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the concurrent resolution (S. Con. Res. 37) authorizing the printing of additional copies of each part of Senate Report No. 944 concerning the manufacture and sale of arms and other war munitions, which was, on page 1, lines 6 and 7, to strike out "and the House of Representatives" and insert "Special Committee on Investigation of the Munitions Industry."

Mr. HAYDEN. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

ADDITION OF LANDS TO CHALMETTE NATIONAL MONUMENT, LA.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 5368) to provide for the addition of certain lands to the Chalmette National Monument in the State of Louisiana, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. WAGNER. I move that the Senate insist on its amendments, agree to the conference asked by the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the President pro tempore appointed Mr. PITTMAN, Mrs. LONG, and Mr. CAREY conferees on the part of the Senate.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Megill, one of its clerks, announced that the House had agreed to the concurrent resolution (S. Con. Res. 37) authorizing the printing of additional copies of each part of Senate Report No. 944, concerning the manufacture and sale of arms and other war munitions, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 4079. An act for the relief of Garfield Arthur Ross;

H. R. 9111. An act for the relief of Evanell Durrance; and

H. R. 12756. An act to authorize the coinage of 50-cent pieces in commemoration of the memory of the late Dr. Charles P. Steinmetz.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and joint resolutions:

S. 1435. An act conferring jurisdiction upon the United States District Court for the District of Connecticut to hear, determine, and render judgment upon the claim of Elizabeth Kurau;

S. 1464. An act for the relief of Frank P. Hoyt;

S. 1687. An act to incorporate the National Yeomen F;

S. 1769. An act for the relief of Percy C. Wright;

S. 2075. An act to provide for the appointment of additional district judges for the eastern and western districts of Missouri;

S. 2137. An act to provide for the appointment of one additional district judge for the eastern, northern, and western districts of Oklahoma;

S. 3067. An act for the relief of A. J. Watts;

S. 3080. An act conferring jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of John W. Hubbard;

S. 3334. An act to make provision for the care and treatment of members of the National Guard, Organized Reserves, Reserve Officers' Training Corps, and Citizens' Military Training Camps who are injured or contract disease while engaged in military training, and for other purposes;

S. 3369. An act providing for the posthumous appointment of Ernest E. Dailey as a warrant radio electrician, United States Navy;

S. 3389. An act to provide for the appointment of two additional judges for the southern district of New York;

S. 3467. An act amending the Shipping Act, 1916, as amended;

S. 3531. An act to amend the act entitled "An act for the control of floods on the Mississippi River and its tributaries, and for other purposes", approved May 15, 1928;

S. 3600. An act for the relief of S. C. Eastvold;

S. 3607. An act for the relief of T. H. Wagner;

S. 3608. An act for the relief of Vinson & Pringle;

S. 3652. An act for the relief of George E. Wilson;

S. 3663. An act for the relief of William Connelly, alias William E. Connoley;

S. 3768. An act for the relief of E. W. Jermark;

S. 3770. An act to award a special gold medal to Lincoln Ellsworth;

S. 3781. An act limiting the operation of sections 109 and 113 of the Criminal Code and section 190 of the Revised Statutes of the United States with respect to counsel in certain cases;

S. 3824. An act for the relief of Maud Kelley Thomas;

S. 3850. An act for the relief of Mrs. Foster McLynn;

S. 3861. An act for the relief of the Alaska Commercial Co., of San Francisco, Calif.;

S. 3992. An act for the relief of Capt. Laurence V. Houston, retired;

S. 4052. An act for the relief of W. D. Gann;

S. 4116. An act for the relief of Grant Anderson;

S. 4119. An act for the relief of Bernard F. Hickey;

S. 4140. An act for the relief of Homer Brett, Esq., American consul at Rotterdam, Netherlands;

S. 4233. An act for the relief of William H. Brockman;

S. 4265. An act to authorize the Secretary of War to set apart as a national cemetery certain lands of the United States Military Reservation of Fort Bliss, Tex.;

S. 4358. An act for the relief of Harry L. Parker;

S. 4359. An act for the relief of W. D. Reed;

S. 4374. An act for the relief of Ruth Edna Reavis (now Horsley);

S. 4379. An act for the relief of the Indiana Limestone Corporation;

S. 4391. An act authorizing certain officers and enlisted men of the United States Army to accept such medals, orders, diplomas, decorations, and photographs as have been tendered them by foreign governments in appreciation of services rendered;

S. 4400. An act for the relief of Barbara Jaeckel;

S. 4444. An act directing the Court of Claims to reopen certain cases and to correct the errors therein, if any, by additional judgments against the United States;

S. 4524. An act to provide a civil government for the Virgin Islands of the United States;

S. 4542. An act authorizing the Comptroller General of the United States to settle and adjust the claim of the Merritt-Chapman & Scott Corporation;

S. 4713. An act validating a town-lot certificate and authorizing and directing issuance of a patent for the same to Ernest F. Brass;

S. J. Res. 61. Joint resolution to repeal an act approved February 17, 1933, entitled "An act for the relief of Tampico Marine Iron Works", and to provide for the relief of William Saenger, chairman, liquidating committee of the Beaumont Export & Import Co., of Beaumont, Tex.;

S. J. Res. 110. Joint resolution authorizing Brig. Gen. C. E. Nathorst, Philippine Constabulary, retired, to accept such decorations, orders, medals, or presents as have been tendered him by foreign governments;

S. J. Res. 151. Joint resolution making provision for a national celebration of the bicentenary of the birth of Charles Carroll of Carrollton, wealthiest signer of the Declaration of Independence;

S. J. Res. 226. Joint resolution authorizing the President to invite foreign countries to participate in the San Francisco Bay Exposition in 1939 at San Francisco, Calif.; and

S. J. Res. 267. Joint resolution authorizing the President to invite foreign countries to participate in the New York World's Fair, 1939, Inc., in the city of New York during the year 1939.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred as indicated below:

H. R. 4079. An act for the relief of Garfield Arthur Ross; and

H. R. 9111. An act for the relief of Evanell Durrance; to the Committee on Claims.

H. R. 12756. An act to authorize the coinage of 50-cent pieces in commemoration of the memory of the late Dr. Charles P. Steinmetz; to the Committee on Banking and Currency.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS AND JOINT RESOLUTIONS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries, who also announced that the President had approved and signed the following acts and joint resolutions:

On June 2, 1936:

S. 537. An act for the relief of C. O. Meyer;

S. 3118. An act to provide for the creation of the Perry's Victory and International Peace Memorial National Monument on Put in Bay, South Bass Island, in the State of Ohio, and for other purposes;

S. 4533. An act granting the consent of Congress to the Mississippi State Highway Commission to construct, maintain, and operate a free highway bridge across the Pascagoula River at or near Wilkerson's Ferry, Miss.; and

S. J. Res. 209. Joint resolution authorizing the presentation of silver medals to the personnel of the Second Byrd Antarctic Expedition.

On June 3, 1936:

S. 267. An act for the relief of certain officers and employees of the Foreign Service of the United States who, while in the course of their respective duties, suffered losses of personal property by reason of catastrophes of nature; and

S. 4354. An act to authorize the attendance of the Marine Band at the Arkansas Centennial Celebration at Little Rock, Ark.; the Texas Centennial at Dallas, Tex.; and the National Confederate Reunion at Shreveport, La., between the dates from June 6 to June 16, 1936, inclusive.

On June 4, 1936:

S. 3452. An act to amend an act entitled "An act authorizing the Secretary of the Interior to arrange with States or Territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes";

S. 4184. An act to amend the last paragraph, as amended, of the act entitled "An act to refer the claims of the Delaware Indians to the Court of Claims, with the right of appeal to the Supreme Court of the United States", approved February 7, 1925;

S. 4298. An act to authorize an appropriation to pay non-Indian claimants whose claims have been extinguished under the act of June 7, 1924, but who have been found entitled to awards under said act as supplemented by the act of May 31, 1933; and

S. J. Res. 262. Joint resolution granting the consent of Congress to the States of New York and Vermont to enter into an agreement amending the agreement between such States consented to by Congress in Public Resolution No. 9, Seventieth Congress, relating to the creation of the Lake Champlain Bridge Commission.

After the conclusion of Mr. LA FOLLETTE's speech,

INTERNAL-REVENUE TAXATION

The Senate resumed the consideration of the bill (H. R. 12395) to provide revenue, equalize taxation, and for other purposes.

Mr. ROBINSON. Mr. President, I desire to make a statement, and I should like to have a quorum present. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BARKLEY in the chair). The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Connally	King	Radcliffe
Austin	Coolidge	La Follette	Reynolds
Bachman	Copeland	Lewis	Robinson
Bailey	Couzens	Loftin	Russell
Barbour	Davis	Lonergan	Schwellenbach
Barkley	Dieterich	Long	Sheppard
Benson	Donahey	McAdoo	Shipstead
Bilbo	Duffy	McGill	Smith
Black	Fletcher	McKellar	Stelwer
Bone	Frazier	McNary	Thomas, Okla.
Borah	George	Maloney	Thomas, Utah
Brown	Gerry	Minton	Townsend
Bulkley	Gibson	Moore	Truman
Bulow	Glass	Murphy	Tydings
Burke	Guffey	Murray	Vandenberg
Byrd	Hale	Neely	Van Nuys
Byrnes	Hastings	Norris	Wagner
Capper	Hatch	Nye	Walsh
Caraway	Hayden	O'Mahoney	Wheeler
Carey	Holt	Overton	White
Chavez	Johnson	Pittman	
Clark	Keyes	Pope	

The PRESIDING OFFICER. Eighty-six Senators having answered to their names, a quorum is present.

Mr. ROBINSON. Mr. President, the amendment which has been under discussion for some time presents a large and material issue. I have been very much impressed with the statements and arguments which have been made in behalf of the amendment, and, as I think is pretty well known, I am in sympathy with the objects of the amendment. I think it more nearly conforms to the President's viewpoint than the provision reported by the Senate committee, and I am sure that the President looks upon it with favor.

In view of the conditions under which the amendment is being considered, the time approaching for the end of the session, the necessity for taking action on the bill, and the wisdom, as it seems to me, of arranging to get it into conference as speedily as practicable, I take the liberty of suggesting to the authors of the amendment that, if they can see their way to do so, they withdraw the amendment, leaving the Senate free to proceed to a speedy vote on the bill.

The latitude which will be allowed the conferees will be very broad in considering the provisions of the bill as it passed the House and those which are in the Senate committee amendments, and an opportunity will be presented to the conferees to work out a satisfactory adjustment. I believe it will have to be done in that way.

I make the suggestion for such consideration and action as the Senators who are the authors of the amendment may deem proper.

Mr. BLACK. Mr. President, this matter has been suggested to the Senator from Wisconsin [Mr. LA FOLLETTE] and myself. So far as I am personally concerned, it is my intention to vote against the bill if it shall be passed without this amendment in it. However, with the situation as it has developed, with a large number of Senators going away, and with the desire on the part of the entire Senate, so far as I know, to dispose of all the business of the session as rapidly as possible; and in view of the further fact that if the bill shall pass and go to conference it must come back to this body for discussion of any agreement which may be reached, the Senator from Wisconsin and myself, after full consideration, have reached the conclusion that the best procedure for us to follow in order that we may obtain our objective is to accede to the suggestion which has been made.

Therefore, with the consent of my colleague, the Senator from Wisconsin, and on account of the reasons I have stated, we withdraw the amendment at this time. We do so with the hope that the full matter may go to conference, and with the statement, so far as I am personally concerned, that I am unalterably and irrevocably opposed to the pending bill in its present form, whether it may be so voted by the Senate or may be hereafter presented in this form.

Mr. MALONEY. Mr. President, I am a little disappointed in the apparent trend of the proposed legislation, but I can fully appreciate, I am sure, the temper and the feeling of the Senate and the feeling of the Senate leadership. I shall offer no objection to the apparent decision of the authors of the pending amendment; but we have arrived at a place where I feel it necessary to make clear at least my own position.

I have almost unhesitatingly, under the lash of the need of distressed people, voted for relief measures since I first became a Member of the Congress. I myself feel that it is cowardly to vote with regularity for relief measures and be at all reluctant to vote for tax measures. But if the pending amendment is withdrawn, and I am denied a chance to express my feelings as to the kind of tax bill I think should be written, I shall be compelled to vote against the bill, and I do not like to do that.

During the last session of the Congress, when proposals as to the tax bill then pending were made by the able Senator from Wisconsin, which went somewhat further than the majority of the Members of the Senate cared to go, I was very glad to vote for those proposals, because I share the views the Senator has so ably expressed this afternoon concerning the need for taxes in a time such as the present.

It so happens, Mr. President, that I come from an industrial State, sometimes referred to as a conservative State, understood generally to be a heavy taxpaying State. During the course of the discussion of the pending tax measure, both in the House and while it was under consideration by the Finance Committee of the Senate, like every other Member of this body, I received many communications from my State. Among them were some from the heads of large corporations urging me to vote against the tax bill. Now, because I am about to comply with that request, I feel it necessary to make clear for the RECORD the reason why I shall so vote. I am not going to vote against the bill because of that particular plea, or because it is necessarily a generally oppressive tax bill, but because it is an oppressive bill, in my humble opinion, for the reasons which have been pointed out by the Senator from Alabama and the Senator from Wisconsin. I am hopeful that the opinion expressed by the authors of the amendment will prevail in conference. It would be too late for me then to make my position clear if I should vote for the bill without the amendment.

I regret to consume any of the time of the Senate during the closing hours of its session, but I felt it necessary to make clear my position and to state my reason for voting against the tax bill after having, with almost complete regularity, voted for relief expenditures.

Mr. SHIPSTEAD. Mr. President, I consider that the amendment involves a policy of such fundamental importance to the Government at the present time in connection with the spending of public funds that Congress should act upon it. I listened with a great deal of interest and care to the statement of the Senators from Wisconsin and Alabama. From the standpoint of economics and Government finance, I consider this one of the most fundamentally important issues I have heard discussed since I came to the Senate.

We are here now dealing with a policy that was pursued until the depression. We are continuing that policy of concentrating the wealth of the country, the income of the country, in a few individuals and a few corporations, individuals and corporations which enjoy the privilege of charging monopolistic prices, taxing the people through high prices, gathering in the income of the people, concentrating the wealth of the country into fewer and fewer hands.

I think it is safe to say that, with the exception of the war, monopoly has never in the history of this country had its feet so deep in the trough as it has now. The basic industries which compose the few corporations in the very highest income backets are the ones that are still milking and continuing to milk the incomes of the country, not only those of the individuals but the taxpayers' money that is being spent on public works and for relief. In every avenue of Government expenditure these interests are collecting profits. The average man gets very little out of the Government's expenditures. The great industries, such as steel, cement, and others, which furnish the basic construction materials of this country, are monopolizing the Government expenditures, and they ought to pay back more

than they have paid in the past. They are the ones who are really getting the benefit of Government expenditures. Take, for instance, the cement industry in connection with the expenditure of Government funds for development of roads and dam construction. In 1928 cement was sold in the Lehigh Valley for $1.28 a barrel. Now it is sold for $1.55. At the same time, productivity of labor in the industry is now 37 percent greater than it was in 1928. Labor produces 37 percent more than it did in 1928. The cement industry gets the benefit of that extra productivity of labor. It gets the benefit not only of that increased productivity but it gets the benefit of the increased price from $1.28 to $1.55 a barrel for cement. The industry charges the same price to Government work and to Government contractors whether they sell 1 barrel or 300,000 barrels.

In appearing before the Interstate Commerce Commission the steel industry as well as the cement industry admitted that 50 percent of their production was due to Government expenditures—the taxpayers' money; and when asked what would happen to production if Government expenditures should cease, they said, "Of course, that would be bad for all of us." But they object to paying taxes.

Under this monopolistic form of industry permitted, or, at least, not interfered with, by the Government, the people are, by reason of high prices, being robbed of their income. Whatever is paid out for relief and to feed the workers and to pay for the materials used to build relief structures is expended largely on commodities produced by monopolistic industry. Under this practice we have the same policy as was pursued by the sovereign of a country in former days when he issued letters of marque to pirates to go out upon the high seas and rob. So long as the pirate returned a part of what he stole to the sovereign he was protected by him whenever he returned to the land of the sovereign who gave him his letter of marque. Now we permit these monopolistic industries to go out and rob the people and we charge as a license fee something in the form of an income tax. But we get very little tax. We get very little in proportion to what they take; and we ought to have more, Mr. President, in order to sustain the relief rolls and the public-works program that is under way. Unless we get enough to keep that work going, the public expenditures are going to break the National Treasury. When you keep paying out you have got to take something in, and where shall you collect it except from those who are benefited by public expenditures—those who collect it from the Treasury, in the first place, and then from the pockets of the people? Unless something is done to get this money back into the Treasury, we are going to have the Treasury empty.

It does not do to assuage our conscience with the statement that we are going to take it away from these people after they are dead by an inheritance tax or an estate tax. We have got to take it away from them now. The policy which has been pursued of making vast public expenditures must necessarily be followed by a policy of heavy taxation. The time is coming when payment has got to be made, and the time to begin paying is now.

It is useless to attempt to fool ourselves that we can go on spending money without collecting it back in some way or another, and the sooner we begin collecting it the sooner we shall get rid of the illusion that we do not have to pay. If we are to continue the present program, we must take in enough to pay the bill.

It is poor consolation for the conscience to say that we will get it back in high income taxes. When we permit the basic industries and large corporations to charge the average man the prices they are charging now, we leave very little left of what is produced. I venture to say the average man has less, or at least not any more, now than he had in his pocket when the national income was being drained under the Coolidge and the Hoover administrations. The average man is not permitted to keep more of his income now than he did then, and we are going to have another explosion like that which occurred as a result of the policies which started credit inflation during the war under Wilson and then under Harding, under Coolidge, and under Hoover. If we continue along that line and do not take something from those who make exorbitant profits, and pay it back to the people who have been impoverished by high prices, we shall continue a policy under which the people are first impoverished to enrich a few monopolistic corporations, who pay in turn some money to the Government so that we can continue to give a dole. Under that system we put the cart before the horse; we have a system under which the Government supports the people instead of a Government supported by the people. And as that policy continues the time will come when the candidate for public office will get the most votes who will offer the biggest and the best dole. That kind of a system would destroy any kind of a government in the world. So I regret very much that the amendment has been withdrawn. I think the National Congress should have entered upon the plan 2 or 3 years ago of increasing income taxes as expenditures were increased in order to bring home to the American people the fact that, no matter how much money we spend, we have got to pay. If we postpone the day of payment, and if we continue the expansion of credit, we may see the time come when the dollar will go to 50, 30, or 25 cents in purchasing power.

So I say, in my opinion, there is a policy involved here of Government finances that is so fundamental that the Congress cannot afford to shut its eyes to its importance and to the necessity, at the earliest possible moment, of putting into effect higher and higher taxes in order to replenish the Treasury.

Mr. ADAMS obtained the floor.

Mr. KING. Mr. President, will the Senator from Colorado yield to me so that I may ask him a question?

Mr. ADAMS. Certainly.

Mr. KING. The committee has a number of amendments. I understand the Senator from Colorado desires to offer an amendment. Will he allow us to dispose first of the committee amendments?

Mr. ADAMS. Certainly; but it was my purpose to offer an amendment.

Mr. NORRIS. Mr. President, I did not understand the Senator's request.

Mr. KING. I asked the Senator from Colorado if he intended to offer an amendment, and he indicated his purpose to do so. I then suggested that the committee had a number of amendments to offer, and I asked that the committee amendments be first disposed of.

Mr. NORRIS. I should like to say a word on the amendment that is pending, as I understand.

Mr. KING. There is no amendment pending. The amendment that was pending has been withdrawn.

Mr. NORRIS. Then I should like to say a word on the amendment that has been withdrawn.

Mr. ADAMS. Mr. President, I have the floor for the purpose of offering an amendment, but the Senator from Utah [Mr. KING] has stated that the committee has amendments it desires to offer, and I yielded in order that that might be done.

Mr. NORRIS. I recognize that; I am not contending with the Senator; but I understood that he was going to withhold his amendment in order that something else might be done. If that is so, I want to occupy the floor for a few moments. I will wait, however, until the Senator has concluded.

Mr. ADAMS. I offer an amendment and ask that its consideration may be deferred if that is the desire.

The VICE PRESIDENT. The amendment offered by the Senator from Colorado will be stated.

The CHIEF CLERK. In the committee amendment, on page 31, line 12, it is proposed to strike out the period and insert a comma and the words—

(a) and minus all portions of such adjusted net income expended or contracted to be expended during the taxable year for machinery, improvements, equipment, and buildings devoted or intended and designed to be devoted to the extension, development, or maintenance of the business of the corporation.

Mr. KING. Mr. President, will the Senator yield?

Mr. ADAMS. I yield.

Mr. KING. As I recall, the understanding at the outset was that the committee amendments were to be disposed of and then individual amendments should be considered.

The VICE PRESIDENT. The Chair understands the amendment of the Senator from Colorado is to a committee amendment.

Mr. GEORGE. There is a pending committee amendment, however, on page 30, for which an amendment in the nature of a substitute was offered, but the author of the proposed substitute has expressed a desire or a willingness to withdraw it, and it has been formally withdrawn.

The VICE PRESIDENT. The Senator is correct. In the ordinary procedure on the bill the clerk will state the committee amendment, and then it will be in order to offer an amendment to the committee amendment. The Chair is informed that the Senate has not reached the committee amendment which the Senator from Colorado proposes to amend. The clerk will report the amendment of the committee now pending.

The CHIEF CLERK. On page 30, after line 5, it is proposed to insert the following:

Upon normal-tax net incomes not in excess of $2,000, 15½ percent.

$310 upon normal-tax net incomes of $2,000; and upon normal-tax net incomes in excess of $2,000 and not in excess of $15,000, 16 percent in addition of such excess.

$2,390 upon normal-tax net incomes of $15,000; and upon normal-tax net incomes in excess of $15,000 and not in excess of $40,000, 17 percent in addition of such excess.

$6,640 upon normal-tax net incomes of $40,000; and upon normal-tax net incomes in excess of $40,000, 18 percent in addition of such excess.

(c) Exempt corporations: For corporations exempt from taxation under this title, see section 101.

Mr. NORRIS. Mr. President, during the roll call I was called out of the Chamber. On my return I was informed that the pending amendment, proposed by the Senator from Wisconsin [Mr. LA FOLLETTE] and the Senator from Alabama [Mr. BLACK] had been withdrawn. I did not hear the statements made or the reasons given why the amendment was withdrawn. I am disappointed and surprised. With still an open mind ready to listen to arguments that appealed to me, I nevertheless felt very much in favor of the amendment offered by these Senators.

So far as I have been able to study the question, I was very much impressed with the proposal when first made by President Roosevelt; the more I studied it and the more information I obtained concerning it, the more enthusiastic I became for the principle involved; and I understand the same principle is involved in the amendment offered by the Senator from Alabama and the Senator from Wisconsin.

I do not want to be misunderstood or to have the record that is made upon the passage of the pending bill give a false impression. I have been told that the Senators referred to withdrew the amendment with the idea that it could be placed in in conference if the conferees wanted to put it in. That is not the way legislation is usually obtained in conference; it is just the reverse. When we have a proposition of legislation that we want to go to conference and let the conferees wrestle with it and settle it, we put it in the bill and do not leave it out of the bill. I am afraid the amendment will not be placed in the bill in conference.

It may be that the amendment could not prevail in the Senate, but I should have liked to have had a vote in order to show the temper of the Senate regarding it; and if, under the present parliamentary situation, it could go into the bill and go to conference, the conferees could have an idea as to how the Senate stood on the amendment.

It is not my purpose now, Mr. President, to argue the merits of the proposition. It seems, the amendment having been withdrawn, that it would only be a waste of time to undertake to do such a thing; but I do not think we ought to lose the opportunity to put on the statute books the principle involved in the taxation of undistributed earnings of corporations.

From the debate that has so far taken place it seems plain to me that this amendment would not only bring in large revenues, but, more important still, it is fundamentally right, as I see it, and carries out the principle of collecting our taxes from the individuals and the corporations that are most able to pay and that can pay with the least hardship.

I expect to vote for this bill, even with this amendment out, and I am hoping that the principle may yet go into the bill, as between the House bill and the Senate bill, but I think the Senators have made a mistake in withdrawing their proposition after all the argument that has taken place and after they have convinced, I believe, a great many Members of the Senate that the amendment ought to prevail.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. BARKLEY. I agree with the Senator almost entirely; I think the debate on the amendment has been very useful and very beneficial to the Senate; but I disagree with the Senator to this extent, that the Senators offering the amendment have made a mistake in withdrawing it. I think, in view of all the circumstances, that a better bill will be obtained out of the conference, because in respect to the amendment the conferees on the part of the Senate will not be handicapped by a yea-and-nay vote that might be regarded possibly as instructions on the part of the Senate, but the conferees will be left freer to go in the direction of the principle in which the Senator and I believe than if there had been a vote on the amendment and it had been defeated.

Mr. NORRIS. I have great regard for the Senator's opinion, but it seems to me the effect on the conferees will be just the reverse. The conferees will probably say, "Why, that question came before the Senate, and so little was thought of it that the movers of the motion withdrew it, and it was dropped." I rather think I would feel that way if I were one of the conferees.

Mr. BARKLEY. Mr. President, will the Senator yield further?

Mr. NORRIS. I yield.

Mr. BARKLEY. Of course, nobody could tell how many votes any amendment not voted on would get if it were voted on, but my observation was based on the fact that, having presented this proposition, if it were voted on and defeated by a large majority, the Senate conferees would feel as if they had received what might be considered to be in the nature of instructions by a yea-and-nay vote on an amendment that was defeated to stand by the bill as reported by the Senate Finance Committee, than they would feel to go any particular distance in the direction of the House bill or the theory which is embodied in the amendment.

Mr. NORRIS. As I understand, the conferees on the part of the Senate will probably be unfriendly to this amendment.

Mr. BARKLEY. I do not know about that because I do not know who the conferees will be.

Mr. NORRIS. Certainly the conferees, whoever they may be, would have a right to say, "The Senate did not think enough of the proposition or believe in it sufficiently even to have a vote on it."

Mr. BARKLEY. I do not think they would take that attitude.

Mr. NORRIS. One of the reasons why I am expressing my views, and I hope I am expressing the sentiment of other Senators as well, is that, because of the withdrawal of the amendment, I do not believe our conferees ought to surrender the principle involved and give encouragement to the House conferees not to stand by the principle if it comes within the province of the conferees.

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. NORRIS. Certainly.

Mr. GEORGE. I always feel the conference committee ought to carry out the instructions of the Senate, but undoubtedly the matter is in conference because the bill as reported by the Finance Committee would impose a tax upon undistributed earnings of 7 percent while the bill that passed the House imposes a higher rate of 40 percent. The amendment, in the nature of a substitute, proposes a rate between the two, so it is clearly a matter for consideration by the conferees.

Mr. NORRIS. I think it is true that the parliamentary situation will take it to conference, or at least allow the conferees to consider it.

Mr. GEORGE. May I say to the Senator from Nebraska and to the Senate generally, with respect to abuses which have crept into our corporate income-tax system with reference to corporations, which abuses have been attacked so strongly and forcefully by the Senator from Wisconsin [Mr. LA FOLLETTE] and the Senator from Alabama [Mr. BLACK], that I doubt if there is any Member of the Senate in disagreement with them. If the abuses can be remedied without inflicting widespread injury upon other classes of taxpayers, I believe everyone is in sympathy with the general purpose of the Senators.

Mr. NORRIS. I thank the Senator for his observation. I believe he has correctly stated the situation. Senators may disagree as to the method, but as to the abuses I think we are all agreed that they ought to be remedied if we can remedy them. It seems to me they are rather glaring. Men of enormous wealth have legally organized corporations—and I am not really complaining of them when they do it, because they do it under the law—and keep their earnings within the corporation. I believe it works out to the benefit of the very wealthly stockholders and to the injury of the small stockholder.

I do not want the impression to prevail with the House conferees or the Senate conferees that because the amendment has been withdrawn the principle involved in it is in any sense or in any way or in any degree abandoned.

Mr. COUZENS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. COUZENS. What is the pending amendment?

The VICE PRESIDENT. The parliamentary clerk has advised the Chair that the pending amendment is the amendment of the Senator from Colorado to the amendment of the committee which was pending. The question before the Senate now is the amendment offered by the Senator from Colorado to the committee amendment.

Mr. GEORGE. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. GEORGE. My impression was the pending question is the language beginning on page 30, line 6, and extending over to page 33.

The VICE PRESIDENT. The Senator is correct. The Chair is advised that the amendment submitted by the Senator from Colorado [Mr. ADAMS] is an amendment to that part of the amendment of the committee appearing on page 31 of the bill.

Mr. GEORGE. I am willing to accept the view of the parliamentary clerk. It may be regarded as one amendment; and if so, the amendment of the Senator from Colorado is in order, but beginning on page 30, in line 20, the subject matter relates to surtaxes on undistributed profits, though it is all part of one general subject.

The VICE PRESIDENT. Yes; it is all a part of one amendment.

Mr. BARKLEY. Mr. President, may we have the amendment of the Senator from Colorado reported?

The VICE PRESIDENT. The clerk will report the amendment.

The CHIEF CLERK. On page 31, line 12, in the committee amendment it is proposed to strike out the period, insert a comma, and add the following:

(a) and minus all portions of such adjusted net income expended or contracted to be expended during the taxable year for machinery, improvements, equipment, and buildings devoted or intended and designed to be devoted to the extension, development, or maintenance of the business of the corporation.

(b) and also minus all portions of such adjusted net income expended or contracted to be expended during the taxable year to replace or restore buildings, equipment, machinery, or other property lost, damaged, or destroyed by flood, fire, or other casualty or accident to the extent such loss shall not be compensated by insurance.

(c) and also all portions of such adjusted net income expended or applied during the taxable year for the liquidation, payment, or reduction of the principal of any bona-fide indebtedness outstanding at the date of the enactment of this act.

Mr. ADAMS. Mr. President, as I understand the basis of the plan for a tax upon undivided surplus, it is that there has been an evasion, a very extensive evasion, of individual income taxes by those in control of corporations by not declaring dividends. I am entirely in accord with the principle involved and the amendment which I have offered is merely an attempt to limit the application of that principle to proper cases.

The first matter I have in mind, if I may illustrate, is a corporation which has started in business, has been prosperous, has earned and maintained a reputation for producing reliable goods, and whose earnings, perhaps, have been substantial. The business demands that there shall be an increase in its machinery, in its buildings, in its equipment. It seems to me what the country needs more than any other one thing is to provide employment for people in private industry. The President of the United States, in his tax message, said that private industry must begin to absorb unemployment.

As I read the bill as it now stands, it tends to prevent the expansion of private industry and consequently to impede reemployment of the unemployed. If we penalize a small corporation because of its earnings out of which it wishes to expand its business, to buy machinery, and erect buildings, we are going to impede the progress of recovery. It seems to me when we compute undistributed income which is to be penalized by a tax, we should give a credit for such part of the income as has been applied to the expansion of the earning facilities of the company. That is the purpose of the first part of my amendment to the committee amendment.

I call the second part of the amendment to the attention of the Senator from Connecticut [Mr. MALONEY], whose statement interested and greatly impressed me. I, too, have been in communities stricken by floods. This part of the amendment provides that if the plant and equipment of a corporation should be swept away by flood, by fire, or by other casualty the corporation may use its surplus earnings to restore its business without being subjected to a penalizing tax.

The third provision—and I am trying to cover the ground briefly—is that a corporation which has a legitimate, bona-fide debt as of the date of the enactment of the measure shall be permitted to utilize its surplus to pay its debts without being penalized for so doing. It seems to me we should not give the preference to the corporation with the big surplus, free from debt, and penalize the other corporation under the handicap of a debt. It seems to me the use of an earned surplus in the payment of debt is not an evasion of income taxes.

So all I am asking in this amendment is to provide that the tax on undistributed income shall be restricted to funds which are not needed and which are not used in the legitimate purposes of the business which will lead to increased business and increased employment.

Mr. SCHWELLENBACH. Mr. President——

The VICE PRESIDENT. Does the Senator from Colorado yield to the Senator from Washington?

Mr. ADAMS. I do.

Mr. SCHWELLENBACH. I should like to ask the Senator a question.

I agree with the theory of the Senator's first provision. However, it does contain within it the possibility of evading the purpose of the tax, whether under the House bill or the committee bill or the compromise bill, because of the fact that it would provide for the use of these moneys for the purpose of evasion through the construction of buildings, the acquisition of new equipment, and so forth. It seems to me it is possible, however, completely to avoid that misuse of the provision by including in the Senator's amendment a provision such as was included in the Black amendment in reference to the declaration of stock dividends.

If a corporation uses its surplus created out of profits for the purpose of building or acquiring machinery, it increases the value of the corporation. It increases the capital assets of the corporation. If, in order to take advantage of that, the corporation must declare a stock dividend in accordance with the provisions of the last section of the amendment proposed by the Senator from Wisconsin and the Senator from Alabama, the possibility of misuse of the provision will be, in my opinion, completely avoided. I was

wondering whether the Senator had considered or would consider that suggestion.

Mr. ADAMS. I have considered it, and I will answer the Senator from Washington in this way:

My view is that we are interested in promoting industry. We desire our business corporations, our manufacturing corporations, our commercial corporations, and all those who employ men, to prosper. We do not wish to put a single handicap in their way. If they desire to put in new machinery in order to employ other workmen, I do not think we should put upon them the burden of having to hire lawyers, hold stockholders' meetings, and go to the State corporation commission. I think they should have that right, and we should not impede it.

I will say to the Senator from Washington that the first element of a tax should be that it should be just. That is the first essential. The tax should raise revenue, of course; it should not discriminate; and it seems to me that if we attempt to penalize the legitimate use of money for the expansion of a business, we are thus, in an effort to prevent evasion, doing injustice to legitimate business; and I do not think injustice to legtimate business should be done, even though there may be some evasion. In other words, our principal purpose should be to accomplish the just ends of taxation if we can do so.

Mr. SCHWELLENBACH. I entirely agree with the Senator, and I think this provision would not in any way penalize a corporation. I think one of the most potent elements in depressions in this country is overexpansion, due to the desire to use money for the purpose of building factories when they are unnecessary. I know of one instance of a concern which constructed for two and a half million dollars a building which it was later compelled to sell for $30,000; it was just completely wiped out; and the concern constructed that building during the war solely for the purpose of avoiding income-tax obligations. It would have been a very great benefit to the corporation to which I refer if something had been done to protect it.

All that would be required of a corporation, if the Senator should include this idea in his amendment, would be that it should declare a stock dividend to its stockholders, so that the value of the stockholders' equity in the corporation would be evidenced by certificates of stock. That would be a protection to the corporation against the desire of the corporate managers to expand improperly, and it would also prevent the use of this method for the purpose of evading the tax laws.

Mr. ADAMS. It seems to me the Senator from Washington approaches the matter from the wrong end. We agree in the elements which we apply, but in an inverse order.

I come from a part of the country where the corporations are small. I am interested in seeing the small corporations given a chance to grow. Out in our part of the country—largely undeveloped as yet—we desire our corporations to make use of their surplus.

For instance, take our mining corporations: If they happen to strike some rich ore this year, do we wish to penalize them, or do we wish to say to them, "You shall not be penalized if you build a mill to handle your ore, if you build further developments and further tunnels." That is, I think we should not penalize growing, small, new industries; and under this 7-percent tax we do not hurt the big corporation with its great accumulated surplus. It is a comparatively small penalty compared with some others; but, nevertheless, a 7-percent penalty starts a principle which I think is unsound, namely, of penalizing the very prosperity of small companies.

Mr. BARKLEY. Mr. President, in the bill as presented by the Senate committee, which places this very modest flat rate of 7 percent on undistributed adjusted net income of corporations, we have attempted to provide a definition which seemed to be as safe as the committee could devise with respect to what is an undistributed net income.

In subsection 2 we provide that—

> The term "undistributed net income" means the adjusted net income minus the sum of the dividends paid credit provided in section 27 and the credit provided in section 26 (c), relating to contracts not to pay dividends.

In other words, in assessing the 7-percent super tax, or tax on undistributed incomes, we have provided that a credit on the adjusted net income shall be given for all the dividends paid, which makes the difference between the total amount of the adjusted net income and the amount upon which the 7-percent tax applies. We have also provided that in cases where a corporation is under contract not to pay dividends, that also shall be taken into consideration, and the 7-percent tax shall not apply in such a case.

That simplifies the matter very much as compared to the House bill. One of the difficulties with the House bill in the committee and on the floor here, if it were gone into in detail, is the complication of attempting to compute the final amount upon which the tax will be paid, because of the complicated tables that are set out in the House bill.

In addition to giving credit for the dividends paid by a corporation before the 7 percent is applied, and in addition to taking into consideration any contracts which the corporation may have entered into with respect to the sale of stock, or any other fact by reason of which they are under contract not to pay dividends where they cannot help themselves, and therefore without that provision would be required to pay the 7 percent on the total adjusted net income without any deduction, the Senator from Colorado seeks to deduct from the adjustable net income "all portions of such adjusted net income expended or contracted to be expended during the taxable year for machinery, improvements, equipment, and buildings devoted or intended and designed to be devoted to the extension, development, or maintenance of the business of the corporation."

I realized, and the committee realized, the desirability of having corporations expand their facilities, give employment to more men, to increase their production, and thereby be able to compete with their competitors. But the very situation against which we are undertaking to legislate grows out of the fact that some corporations, instead of distributing their dividends, retain all of them, on one pretext or another, and, if the first part of this three-cornered amendment of the Senator from Colorado should be adopted, it would afford only another loophole through which corporations now undertaking to evade and succeeding in evading taxes, would be able to evade still further. Let us take the first and second parts of the Senator's amendment. Let us suppose that a corporation were entitled to a deduction of $10,000 because of a desire to build a new building or to put in new machinery; then let us suppose the same corporation has suffered under the conditions set out in the second part of the Senator's amendment; they will be allowed a deduction of $10,000 for machinery replaced because of a fire or flood or other catastrophe upon which there was no insurance. The corporation could deduct the same $10,000 under the first part of the Senator's amendment, and again under the second part of the Senator's amendment, and, although their installation of machinery or the new building contemplated both cost only $10,000, they could receive a deduction of $20,000, because both amendments might cover the same proposition.

In the third part of the Senator's amendment it is provided that not only shall they be entitled to a deduction of all the amounts contemplated in the building of the new buildings and the installation of the new machinery, and all amounts for machinery or buildings destroyed by flood, fire, or other catastrophe not fully covered by insurance, but they would also be entitled to a deduction of "all portions of such adjusted net income expended or applied during the taxable year for the liquidation, payment, or reduction of the principal of any bona-fide indebtedness outstanding at the date of the enactment of this act."

Mr. President, that brings to mind a very sharp distinction between the treatment of individual taxpayers and the treatment of corporate taxpayers. I am very sympathetic with the suggestion that a corporation ought to have a cushion not only for future expansion, but to take into consideration the question of indebtedness, and the bill as it passed the House does that in a way, and that matter will have to be

adjusted in conference. However, the amendment offered by the Senator from Colorado is not a cushion, it is a feather bed. Three prongs of the amendment offer a loophole or a combination of loopholes through which any corporation might escape entirely from the payment of any of the tax levied upon undistributed net income.

Mr. BONE. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. BONE. When the bill was before the committee was any study made of the large corporation surpluses now held by certain of the larger corporations? There were piled up in the lush years enormous surpluses, which form a tremendous pool to be drawn on, and those surpluses have been undistributed. Some run back several years.

Mr. BARKLEY. In reply to the Senator, I will say that the Senate Committee on Finance gave very earnest consideration to the question of existing surpluses, but inasmuch as it was not designed to interfere with the surpluses which have already been created, since the design was to levy a corporate income tax applicable from year to year, the committee did not see fit and did not think it wise to go back into the past and undertake to levy a tax on surpluses already created.

Mr. BONE. The argument was made here, and advanced very vigorously, that if the formula suggested by the Senator from Alabama [Mr. BLACK] and the Senator from Wisconsin [Mr. LA FOLLETTE] were applied, it would injure the smaller corporations from now on, and that the only way to equalize the burden would be to levy a tax on the surpluses of a few corporations, the names of which I have in my desk.

Mr. BARKLEY. I appreciate the force of what the Senator has said, but if we entered into the field of attempting to adjust a tax bill to corporate surpluses already in existence, it would simply complicate still further an already complex situation, as I think all members of the Committee on Finance will agree.

Mr. CONNALLY. Mr. President, the Senator from Kentucky realizes, as does the Senator from Washington, that any levy on existing surpluses would be a capital levy and not an income tax.

Mr. BARKLEY. Certainly. The entire theory of the bill is that it provides for an income tax, a mere income tax, and therefore we have not seen fit to enter into the field of a capital tax upon existing surpluses.

Mr. KING. Mr. President, if the Senator from Kentucky will yield, let me say, too, that the evidence is conclusive that during the past 13 years the net incomes of all corporations in the United States have amounted to only $40,000,000,000, and the dividends have been distributed to the extent of $51,000,000,000, leaving deficits in the case of many corporations.

Mr. BONE. I fully agree with that, and I do not know whether it was in contemplation of the situation suggested by the Senator from Texas [Mr. CONNALLY], but it was deemed by the committee to be constitutionally impossible to levy a tax upon those reserves to which I have referred. But they are, however, enormous in many cases, and they constitute such pools of wealth that they are going to give certain corporations what amounts, by the process of their economic operation, to a virtual monopoly in their fields. There can be no competition with these big combinations, with their tentacles reaching out in all directions, and buttressed and backed up by these enormous pools. I do not know whether or not they can be reached constitutionally, but it has seemed to me that we can tax such wealth as well as we can tax homes.

Mr. BARKLEY. Mr. President, without regard to the constitutional question, the committee thought that in order to reach the corporations to which the Senator refers it would be necessary to levy a tax upon the little surpluses which have been set aside by large numbers of small and medium-sized corporations throughout the country which are perfectly legitimate and sound—surpluses set aside in the interest of good administration and in the interest of employment and in the interest of tiding them over in adverse circumstances which might occur in any one year as compared with others.

Mr. BONE. Might not the object be achieved by graduating the tax so that it should not apply unjustly to the smaller corporations? Our purpose is to collect revenue to pay the extraordinary expenses incurred in the relief program, and there are these vast pools of money which, it seems to me, can very legitimately and properly be taxed.

Mr. BARKLEY. Of course, the amendment of the Senator from Colorado does not involve that question, and I do not deem it necessary to discuss it. I hope the amendment will be defeated.

Mr. WALSH. Mr. President, the Senator from Colorado inadvertently has drawn our attention to the distinction between all three tax bills we have been considering. One of the most difficult problems the Committee on Finance had to consider was the very one this amendment raises. In other circumstances everyone on this floor ought to vote for the pending amendment and for other amendments of the same character, but if all of us did so, little of the income requested by the Treasury would be secured from these corporations. That is the difficulty we have met at every turn. Instead of writing a tax bill that was just to all, we have been thinking of the amount of money we must raise from corporations. So we had to frame a bill that was the least harmful to the very group to which the Senator refers. The Senate bill, at least, limits the tax upon undistributed income to 7 percent, while the Black bill and the House bill make it possible to tax as high as 35 percent and 42½ percent.

We have heard a great deal of talk on this floor today about large corporations and small corporations, rich corporations and poor corporations. Let me tell the Senate about some of the corporations which are not in either of these classes, which are in the communities where we live, and which employ small numbers of human beings and give employment to citizens in this country.

Let us see what some of these other corporations are. If the corporations with big surpluses and escaping some taxes were the only kind of corporations in the country, the rates in the bill as it passed the House ought to be tripled, if that were possible. What they are doing here is trying to destroy the rats, but in doing this they would burn the house, and at the same time destroy the sound and prudent business policy of the country.

Let us consider what kind of corporations we ought to be thinking of; not rich, powerful corporations which have been tax dodging, and for which no one here has any sympathy. What about the struggling corporation in the small community, employing a few hundred hands, which has a deficit? Have they rights to be considered in passing a tax bill? Do we want a tax bill that will finally put them out of business? Do we want a tax bill that is going to prevent the corporation paying its debts? That may happen under some of these tax proposals.

Then, there are the corporations with contracts which would prevent the payment of dividends.

Next there are the corporations with contracts obligating the corporations to the expenditure of money for the construction of plant machinery and equipment in order to increase employment.

There is nothing in the bill to permit a deduction in income to be made for contracts made by a corporation for the purpose of enlarging its machinery and increasing its plant so as to give more employment to the American people.

Then there are corporations that within the taxable year make expenditures to increase their plants in order to increase employment, and they should not be penalized like the rich, gigantic corporations which have been tax dodging by not distributing their earnings.

There are also corporations that today have large reserves to their advantage, but there are also corporations without

any reserves. Are these latter corporations to be penalized in the future when they want to set up a surplus?

Also, there are corporations with all their net income being actual realized income, while others have only paper profits, an increase merely in their inventories. Such corporations are to be penalized unless they borrow the cash—40 percent of their inventory profits, in some cases—to pay their taxes.

Are there no corporations in the country that need to build up substantial surpluses to give their investors protection and their employees wages in periods of depression? How can we defend a policy of penalizing such by excessive taxation?

Again, the laws of 36 States prohibit corporations chartered by them from making a dividend distribution if their capital is impaired. Under the proposed undistributed-profits tax, corporations affected by these provisions would be heavily penalized by the Federal tax for keeping within the law. The House bill taxes these corporations a flat rate on their net income of 22½ percent, regardless of their dividend policy.

I went into the committee room, as every other member of the committee did, thoroughly, sincerely, heartily in favor of the objectives announced by the President. In fact, I went nearly so far as to make a favorable public statement—which now I am very thankful I did not make—but as I sat there 30 days, as all of us did, I decided that the bill as it passed the House was impossible, that it was impracticable, that it was not workable, that it would bring ruin in many instances to many of these corporations. So we got down to the question of the difference between the two bills before us.

The distinguished Senator from Michigan brought out the astounding fact that 98 percent of all the corporations in this country employ less than 250 persons each. What about those 98 percent? There are 8 or 10 of them in my town, and one year they lose money and another year they make money. They are to be found in every State in the Union.

Are we going to punish them in the year they make money by putting a penalty tax upon them, or are we going to say to them, "Put that away for that rainy day, for that flood or fire or other disaster that may come, for that injury that may happen to you, so that you can be in a position when such disaster comes to pay dividends to people who need dividends at that time, and also to give employment to the working people"?

Think of this situation, Mr. President. Ninety-eight percent of all the corporations in this country employ less than 250 people each. Are they big corporations? Are they wealthy? Or are they struggling and working and striving to develop business in this country? Are they honest men? Are they men who are contributing to the wealth of our Nation?

I repeat that the trouble with the problem we have had before us is that no distinction whatever has been made between the group or class of corporations just spoken of and those who are described as "rats." I for one and my colleagues on the Finance Committee decided that we would not burn the house in order to destroy the rats.

As we sat there in committee for 30 long days we gradually became convinced, almost to a man, that the House bill was indefensible and impossible. No Senator raised his voice to defend it—not one. What is objectionable about the House bill is the inequitable principle that it applies to all kinds of corporations, namely, the graduated tax on undistributed earnings. In our efforts to raise the necessary money that the Government needs, and in our determination not to apply this most unsound principle unless safeguarded by impossible exceptions, we voted for a compromise bill, namely, the committee bill. We realized once the graduated tax on undistributed earnings was adopted, it would lead to increases and increases on undistributed earnings, so that ultimately the very fabric and structure of the corporate business life of our country would be destroyed. Hence, the committee resorted to this so-called Finance Committee compromise, which leaves the subject of taxes on undistributed earnings the same as the flat tax on all incomes of corporations, namely at 7 percent.

The distinguished Senator from Georgia and many others thought that the soundest way would be to apply a normal tax of 4 percent, but that would not give us the necessary money; and if we put these cushions in and lifted the companies out that should in justice be protected, we could not raise the $600,000,000 requested.

Let me add this. I said all these debt and obligated corporations ought to be given consideration and ought to be removed from the net-income provisions of this bill and allowed to deduct their debts. However, if we did that, there would be no money coming in. The $660,000,000 would disappear. In fact, the experts to whom I submitted the very amendment of the Senator from Colorado and five other amendments affecting the corporations I named earlier and which ought to be in this bill, said the revenue to the Treasury would so rapidly disappear that there would not be any left. I said how much would be left? Give me an estimate. The best guess I received was that there would be about $50,000,000 or $60,000,000 out of the $660,000,000 which would come from the tax dodgers and the rats. The other $600,000,000 would come from the struggling corporations or corporations of the type and character I have asked the Senate to protect.

I do not want to take up the time of the Senate any more. I could not let the occasion go by, when the Senator proposed this amendment, to point out the thoughts I have had in mind, the thought of the financially weak corporations, the thought of continuing employment, the thought of encouraging corporations which want to build, equip, and develop their business. The whole history of America shows that all corporations, bad and good, have been developed by the surpluses made by men and women who invested a few dollars in the beginning in a business, and increased and developed their plants and have given employment and prosperity to this country.

It was because we were thinking about the injustices and inequities to such corporations, it was because we were thinking of justice, of trying to establish a just system of taxation rather than getting money for the Public Treasury, that the committee favored the lesser injury its bill presents.

I do not mind saying I am not satisfied with the Senate bill. I do not want to apologize for the bill that the committee drafted. It is the best of the propositions which have been presented that will raise the revenue demanded. I have no quarrel with the viewpoint of the Senators from Alabama and Wisconsin. They have ably presented their views, with which I am in accord 100 percent were it possible to apply the graduated-tax principle only to the corporations that are not distributing or paying out in dividends their undistributed profits. Day after day in the committee, and again today, I asked the experts—and I now ask any Member of this body to show how it is possible to draft a bill that will give the Treasury the necessary money and at the same time apply the penalty only to this tax-dodging group of corporations? The evidence before the committee was—and I call the attention of the Senators from Georgia and Utah to the fact—that it was believed that there were corporations that were distributing all their earnings, but the overwhelming evidence is that such corporations were comparatively few in number. These corporations have a lot of money they have not distributed, but their number is few. So I repeat, let us in passing this tax bill think of the 98 percent of factories and business houses, the lumber yard, the chair factory, and shoe and tanning factory, the tool and candy shop, the harness factory, the canning factory, the hundred and one other shops and factories—visualize them, see them in your own town.

I have observed, as have you, what has been transpiring in recent years. I know they have had their hard years and their good years. I for one do not want to put them in the position that when they have had a good year they cannot put aside some of their surplus.

On my desk are hundreds of protesting letters from industrialists in my State and from all over the country. I have never known businessmen to be so open and frank in the discussion of their businesses as at this time. They are really frightened. In the opinion of many their alarm is justified. These letters of businessmen show the money they had in 1926, 1927, and 1928, and then showing the deficits—my God, what deficits—which came upon them in 1931, 1932, and 1933. God only knows what would have happened to this country if it were not for the surpluses which were accumulated in 1926, 1927, and 1928. These letters show the facts of how they fought unemployment. In letter after letter they have said they did not lay off their employees, that they complied, so far as they possibly could, with the N. R. A. for limitation of hours of labor, telling the story and giving the figures showing that in many cases their surplus went down and down until it was completly wiped out.

Mr. President, we demand by law and encourage always the building up of surpluses by the banks in order to protect their investors. Now we are urging every other business institution not to create surpluses. How paradoxical.

Mr. President, I would not have spoken but for the amendment offered by the Senator from Colorado, against which I shall regret to vote, and which ought to be in some form in any tax bill.

I remind the Senate again that I honestly believe four-fifths of the tax on undistributed earnings will come out of the struggling small corporations of the country that are the backbone of our business life. My answer is that the experts say if we put these exceptions in the bill, that in justice we should, the revenue disappears. In a word, the trouble with these measures is that in our efforts to penalize, as we should, the guilty corporations we are penalizing the innocent business concerns, and they far outnumber the guilty.

Mr. President, I ask that some of many letters which I have received and statements I have prepared in relation to the matter may be incorporated in the RECORD at this point.

There being no objection, the letters and statements were ordered to be printed in the RECORD, as follows:

SUMMARY OF CONCLUSIONS OF THOSE OPPOSED TO HOUSE BILL

1. That the proposed bill is detrimental to the best interests of the country in several important respects, to wit:

a. It will make it difficult for businesses to build themselves up.

b. In many instances it will make it difficult to repay existing debt.

c. In many instances it will curtail the granting of credit.

d. It will tend to prevent continuity and stability of employment.

e. It will favor those corporations which now have surpluses and no debt as against the others.

f. It will keep weak corporations weak.

g. It will compel many corporations to borrow money to pay their taxes because their undistributed profits are largely inventory earnings.

h. It will prevent a regular flow of dividends.

i. It will penalize corporate savings against hard times.

TABLOID ARGUMENTS

1. In general, large corporations with adequate surplus reserves are now distributing the major portion of their earnings, and under this new tax bill could distribute their entire earnings without impairing their position, but the consequent result would be a very large loss of revenue to the Federal Government.

2. Conversely, small corporations which are growing, and which need a substantial portion of their earnings to further their growth, would immediately be stifled.

3. Small corporations would not have the possibilities of securing outside capital as in many cases their status has not yet been proven.

4. New corporations would be extremely limited unless the sponsors thereof were very wealthy men in their own right.

5. It would be a direct preventive of the accumulation of surpluses to cushion any disaster such as depression, strikes, floods, and so forth, resulting in the immediate necessity of dismissal of every employee in the case of such a disaster.

6. An analysis of the tax returns of corporations during the past depression indicated losses in excess of $5,000,000,000, these losses only being able to be absorbed in view of prior surpluses which had been created.

ARGUMENTS AGAINST HOUSE TAX BILL

1. It is an effort to substitute Government judgment for directors' judgment as to how much of a company's earnings might be kept in reserves.

2. It uses the taxing power to encourage directors to pay out more as dividends than can safely be paid out if the company is to keep solvent.

3. It discourages the reinvestment of corporate earnings in industry; yet the great development of industry has come about largely because of such plowing back of earnings. For example, 80 percent of the capital in the automobile industry consists of reinvested profits.

4. Authors of the House bill assume that all surplus consists of cash. Actually, of course, most surplus represents investment in inventories, equipment, buildings, etc.

5. Authors of the bill assume that all earnings made by a company in a year are in cash which can be paid out as dividends. Actually, of course, this is not so; for example, a good part, or all, of the earnings may represent paper profits on inventories and not be cash at all.

6. The bill seems to favor strong companies which make money every year and do not need any more reserves; it would discriminate against (a) companies which need to set aside substantial reserves in good years to offset losses in bad years; (b) companies which need to set aside substantial reserves to keep up working capital; (c) companies which need to set aside substantial reserves to enlarge their operations; (d) companies which are trying to get established.

7. Actually, however, the bill does not really favor large companies, because if it results in promoting monopolies, as most economists think it would, it will result in more Government regulation of industry.

9. If the bill is enacted, it will mean that the Government will be establishing standards of corporation practice based on averages—even though one corporation really needs to keep 80 percent of its earnings and another only 20 percent, and that the Government will be inviting, even encouraging, corporation directors to take risks with money by depleting the working capital of the company.

WILLIAMS COLLEGE,
Williamstown, Mass., April 30, 1936.

Hon. DAVID I. WALSH,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR: Referring to the new tax bill which was adopted yesterday by the House by an overwhelming majority, I urge that you use every means at your disposal to secure a thorough revamping of the measure in the Senate.

In its present form the bill, almost throughout, violates the very fundamentals of sound economics. It is impossible in a communication of this kind to enter into any adequate discussion of all of its vicious provisions. Two of them, however, are so glaringly unsound and unjust that they should be entirely eliminated. I refer to the basic idea of the whole measure, namely: The proposed tax on corporation surplus reserves, and the proposed tax of over 40 percent on the net income of all corporations occupying the position of intermediate members in holding companies.

Supporters of the bill seek to justify the first of these on the ground that it will close a loophole for the evasion of personal-income taxes by large stockholders. It is possible that in some few cases evasions have been effected by holders of large blocks of stock in a few corporations. But there is not one particle of evidence that such has been a general practice. I ask you candidly to consider whether it is wise or just to its inmates to burn down the house to get rid of the rats.

To one who has followed the economic theories of the present administration, this feature of the bill appears as the culmination and most unblushing exposition of a determined policy to penalize thrift and sound economic practice. As a New Englander, brought up in the tradition of thrift and business foresight, one would think that this provision of the bill would make your gorge rise.

The other provision of the bill referred to contains a threat to the support of all who may be so unfortunate as to hold stock in any company which is a subsidiary in a holding set-up. These small holdings in the majority of cases represent the savings of hard-working and thrifty individuals who have laid by for their old age. This bill, at least this provision of it, would penalize their individual thrift and foresight. It is the people of this class who are really the forgotten men and women.

Would God we had more men in Washington who had the courage to place the welfare of the country ahead of the furthering of their own political ambitions and fortunes.

Yours very truly,

WILLIAM HOWARD DOUGHTY, JR.,
Professor of Political Science.

NEW ENGLAND COUNCIL,
ECONOMIC DEVELOPMENT AND RESEARCH,
Boston, Mass., May 20, 1936.

Hon. DAVID I. WALSH,
United States Senate, Washington, D. C.

MY DEAR SENATOR WALSH: We urge you to give the fullest consideration possible to the following points regarding the revenue bill of 1936, as passed by the House of Representatives.

(1) The revenue bill of 1936, as passed by the House of Representatives, does not simplify the system of Federal taxation, but, on the contrary, it adds many new complications to our already over-complicated tax laws.

(2) The bill would make considerations as to the tax effect of paying or not paying dividends of undue importance in the operation and management of corporations.

(3) It would tend to prevent accumulation of surplus in good times to help to tide corporations over bad times, without the necessity for (a) suspending entirely the payment of dividends, or (b) drastically reducing employment.

(4) It would make it difficult for new businesses, operating as corporations, to retain funds out of earnings for healthy expansion, by placing prohibitive taxes upon earnings so retained.

(5) It would give an unfair advantage to old-established businesses with large surpluses and consequent ability to pay dividends and avoid taxes on undistributed earnings.

(6) It would produce grave inequalities in the taxation of corporations in the same line of business but of varying capacity to pay dividends because having more or less liquid assets available.

(7) It would work unequally as to corporations with similar earning power but in different lines of business, in which liquidity of assets varies according to the nature of the business, with consequent variation in assets available for distribution in dividends.

(8) It would make hardship for businesses which by their nature have years of substantial earnings followed by lean years.

(9) It would bear unevenly upon two corporations with like earning power, one of which happens to have surplus from which dividends can be paid and the other of which has a deficit so that its earnings, if distributed, are not taxable and do not reduce undistributed income subject to tax under the proposed law.

(10) It makes no adequate provision for equitable treatment of corporations sustaining heavy capital losses which reduce funds available for dividends but do not correspondingly reduce taxable income because of the $2,000 limitation in section 117 on deduction of such losses.

(11) It would impose unreasonable burdens on corporations which have substantial sinking-fund requirements in preferred-stock agreements or bond indentures, or have large indebtedness which must be reduced even if there are no sinking-fund provisions. Such corporations are not in a position to avoid the tax on undistributed earnings by paying them out in dividends.

(12) It would force new financing by bond or stock issues to raise funds not retained from earnings, and such procedure is always expensive and often, in times of depression, practically impossible.

(13) Secretary of the Treasury Morgenthau says the bill is intended "to put all taxes on business profits essentially on the same equitable basis; to give no advantages and to impose no penalties upon corporation stockholders that are not given to and imposed upon the individual taxpayer who alone or as a partner derives his income from business profits." In practice the bill cannot produce this result, because it depends, for raising the required revenue, upon a substantial part of the taxes being collected from the corporations themselves at rates which bear no relation to the ability of the stockholders to pay taxes.

(14) The revenue-producing capacity of the bill is so uncertain that the very great change in the scheme of Federal taxation which it proposes is not justified by the possible revenue it may bring in.

(15) The provisions of the bill imposing the maximum tax on intermediate holding companies is not a revenue measure, but is indirect legislation for the purpose of eliminating from the business structure of the country companies of this class, whether or not in utility systems and for whatever purpose existing.

Sincerely yours,

RICHARD W. SULLOWAY,
Chairman, Industrial Committee, New England Council.

Maine—William L. Blake, Dana C. Douglass; New Hampshire—F. A. Putnam, Richard W. Sulloway; Vermont—Edmund Deschenes, Olin D. Gay; Massachusetts—Sinclair Weeks, Charles A. Whiting; Rhode Island—Robert S. Holding, Wilbur L. Rice; Connecticut—Clayton R. Burt, Clifford F. Hollister. Secretary, Ray M. Hudson.

BOSTON, *May 4, 1936.*

Hon. DAVID I. WALSH,
Washington, D. C.

DEAR SIR: The proposed corporate-tax law that is coming before the Senate is a matter of very serious consequence to the leather industry. We are compelled to buy raw material in advance of our wants, partly because of the seasons when it is available, and partly because of the distance that it has to come.

The process of manufacture is long, and it is not always possible to sell merchandise when manufactured, all of which means carrying very large inventories. Competition is so keen that it is very difficult to get a proper advance to cover rising costs of raw material, while buyers are able to insist upon reductions because of lower prices in the raw-material market.

Actual experience in the past 15 years under the conditions that have prevailed shows immense capital losses in the leather industry; and if, as proposed under this bill, any profits that do accrue are to be heavily taxed, the position of the American leather industry will be very serious.

We urge that you give these facts very serious consideration. Our industry cannot stand any more burdens than continue to exist.

Very truly yours,

AVERY LOWRY.
MAXWELL J. LOWRY.

BOSTON, *May 18, 1936.*

Hon. DAVID I. WALSH,
Member of Senate Finance Committee,
Washington, D. C.

MY DEAR SENATOR WALSH: The Standard Crayon Manufacturing Co., of Danvers, Mass., is much disturbed by the tax bill passed by the House of Representatives and now before your committee, and by the suggestions contained in the New York Times of May 13, and the papers of May 17.

In the first case, if we could make $1,000 a year net income and did not distribute it, we would be subject to practically 100-percent tax.

In the second case we would be subject to a tax of $450.

Our annual gross business is about $165,000, so we are not a large company. In 1934 we lost $8,000 and in 1935 we lost $4,000. There is only $700 left in our surplus, thus, $12,000 out of our savings accumulated in past years for the privilege of staying in business and keeping our help employed. The stockholders have had nothing.

This company and its predecessors have been in business for nearly 40 years.

In Sunday's paper reference is made to the possibility of a flat 18-percent and a flat 7-percent tax, making a total of approximately 25 percent. Applying this percentage to a net income of $1,000, this little company would still be paying a terrific tax, the result of which would be to deprive it of accruing an adequate surplus to enable it to pay off its debt and to maintain its credit.

In other words, such taxes benefit the big fellow, who will gain by forced liquidation of this and other small companies.

In addition, we must pay this year about $600 under the social security law, increasing to at least $3,600 a year by 1942.

To establish proper credit, we should be allowed to build up a surplus of at least 10 percent of our sales before being taxed as proposed.

In the event of the passage of any such tax measure persecuting our company for accumulating a reasonable surplus, this company will have to liquidate and 40 to 100 employees will have to be discharged.

More information will be furnished if you wish it.

May I hear from you?

Yours very truly,

A. B. TENNEY,
ALBERT B. TENNEY, *President.*

ARNOLD PRINT WORKS,
NORTH ADAMS, MASS., *April 30, 1936.*

The Honorable DAVID I. WALSH,
Senate Office Building, Washington, D. C.

DEAR MR. WALSH: We believe that the following explanation of the effect upon our company of the new tax bill about to be considered by the Senate Finance Committee will be of interest to you and will indicate the necessity for a relief provision, in addition to those already incorporated in the bill as drafted by the House Committee on Ways and Means.

Arnold Print Works owns and operates a business established in 1862 in the city of North Adams and town of Adams, Mass., consisting of two manufacturing plants, completely equipped for the printing of approximately 160,000,000 yards of textile goods annually and employing approximately 2,000 people at the present time. Prior to 1932 its business consisted primarily of commission printing, so-called, whereby grey goods owned by others were finished for a fixed fee or charge per yard, and the gross income from the business amounted approximately to $4,500,000 annually. Beginning in 1933 it became necessary to engage in corporation printing, so-called, whereby it purchased grey goods and sold the finished merchandise as its product, and the gross income from the business increased from approximately $4,500,000 in 1932 to approximately $15,000,000 in 1934 and in 1935. The company did not have adequate working capital to finance its constantly increasing corporation printing, and unable to obtain such working capital was forced, on September 3, 1935, to institute proceedings for its reorganization under section 77B of the Bankruptcy Act, in the District Court of the United States for the District of Massachusetts. Operations of the business since September 3, 1935, authorized by said court, have been on a substantially profitable basis.

After prolonged negotiations with our larger creditors and stockholders, we have formulated a plan of reorganization which substantially preserves the existing relationship between the various classes of creditors and stockholders and provides for the borrowing of $1,200,000, the additional working capital required in the continued operation of the business.

It is not possible under present conditions to obtain the $1,200,000 additional working capital through the issue of stocks, notes, or bonds, and we believe the only source from which such working capital can be obtained is Reconstruction Finance Corporation. We have therefore filed an application for a loan in the amount of $1,200,000 from Reconstruction Finance Corporation, to be repaid out of earnings prior to January 31, 1945, because of the fact that Reconstruction Finance Corporation is not authorized to make loans maturing later than January 1, 1945.

There are approximately $430,000 of unsecured trade creditors of the company who, under the proposed plan of reorganization, will receive 10 percent of their claims in cash and 90 percent of their claims in 10-year deferred notes, which notes will be paid

out of earnings of the company. Therefore, under the proposed plan of reorganization, approximately $250,000 of the net earnings in each year will necessarily be applied to the repayment of the loan from Reconstruction Finance Corporation and the repayment of the deferred notes issued to unsecured trade creditors, and cannot be distributed to stockholders. Also, Reconstruction Finance Corporation, we understand, invariably requires borrowers to agree that no dividend will be paid on any class of stock while its loan is outstanding without its written consent.

On an estimated net income for the year 1936–37 of approximately $300,000, the tax assessed under section 13 of House bill 12395, by reason of our failure to distribute income applied to the repayment of the Reconstruction Finance Corporation loan and the deferred notes, would amount to approximately $103,500. Such a tax might seriously jeopardize our ability to obtain the $1,200,000 loan (without which it is doubtful if our business can be continued) and even if we are successful in obtaining such loan, may impose such a burden upon the business that its continued operation would be impossible.

It seems to us, therefore, that relief should be provided for corporations in our circumstances, which are forced to apply earnings to the repayment of obligations incurred in order to carry out a reorganization, without which the business must necessarily be liquidated. It also seems to us that the Government would be adequately protected against collusive arrangements if the relief were afforded only to corporations reorganizing under the provisions of the Bankruptcy Act.

In connection with the foregoing we would also like to suggest that the rate of 22½ percent, the rate which the Ways and Means bill recommends for imposition in the case of all its relief provisions, is too high, and amounts to a penalty in cases which are not proper cases for penalty. To impose upon a corporation in financial distress, as a condition for obtaining new money or concessions from owners of preferred securities outstanding, vital to its continued existence, the obligation to pay a tax of 22½ percent on that part of its income withheld from distribution to stockholders under these circumstances, might in many cases close to the line have the effect of effectually preventing the reorganization and salvaging of the business. We believe an imposition of the 15-percent rate now in effect and recommended, under the Ways and Means draft, for imposition on banks, insurance companies, and other corporations not brought within the framework of the general measure is high enough, particularly when it is borne in mind that when the income involved is eventually distributed it will be taxed in full to the recipient stockholders, being subject in their hands at that time to both normal and surtax. This suggestion, that the rate in such cases should not be higher than 15 percent, applies to the relief provisions already in the bill, covering income accumulated to make up deficits, income accumulated pursuant to contracts executed prior to March 3, 1936, and income accumulated to amortize excessive indebtedness incurred prior to March 3, 1936, although the hardship involved in so high a rate is perhaps more obvious in the case of corporations insolvent or in serious financial distress.

While we are, of course, primarily interested in our own problem, we believe that it is illustrative of the effect of the proposed tax bill on corporations which now are or hereafter may be faced with the necessity for a reorganization. We sincerely hope that this letter may be of assistance to you and will be only too glad to furnish you with additional detailed information with respect to our present situation, should you desire us to do so.

Very truly yours,

S. M. JONES, *President*.

CRAPO, CLIFFORD, PRESCOTT & BULLARD,
New Bedford, Mass., May 13, 1936.

Hon. DAVID I. WALSH,
United States Senate, Washington, D. C.

MY DEAR SENATOR WALSH: One of the very few bright spots in the New Bedford industries since the start of the depression has been the Gosnold Mills, which has earned a small amount of money most of the time throughout the depression. There is, I believe, only one other mill which has been able to earn money, and it had no debts.

The Gosnold in 1928 owed $980,000 to sundry banks. As you know, the depression hit the cotton business about 1925, and by 1928 the affairs of the Gosnold had become so bad that the banks demanded a reorganization and that their loans be paid down. The stockholders raised $330,000 by the issue of 7-year debentures junior to the bank loans, and the bank loans were paid down. These debentures required that a certain proportion of the earnings each year be set aside to retire them, but the earnings have never been great enough to completely retire them and approximately $170,000 of them will come due this fall.

In the meantime, during the worst days of the depression, the banks demanded still further payments on their loans, and they were paid down substantially so that in the 7 years since 1928 very nearly half a million dollars have been paid off this big debt out of earnings.

The Gosnold has run extremely actively during all this period, and its pay roll has, I think, been the biggest in New Bedford or certainly nearly the biggest. Had the law which is now contemplated, taxing earnings which are used to pay off obligations, been in effect the Gosnold would have gone out of the picture long ago, and the brighest spot in New Bedford industries would have vanished.

The Gosnold had a comparatively good year last year when the situation of the cotton industry is considered, but it must pay off its notes this fall. Its earnings are going to be a great help in making it possible for it to be able to do this. Before long, if left alone, it should be able to begin to return something to its stockholders.

I want to call this situation to your attention because I feel that any bill penalizing a corporation which tries to pay off its debts, particularly debts that come due as do the Gosnold notes this year, can bring nothing but ruination on many of the smaller industries of the country, which are just the ones which apparently the Government thinks it would like to protect.

I am a director of the Gosnold, but my interest in it is that of a stockholder as I own none of the notes. I should like very much to have a dividend, but I realize that any law which forced dividends during the depression would have destroyed the corporation. I hope the Senate will not allow a bill with this feature to pass.

Very truly yours,

JOHN M. BULLARD.

SALEM OIL & GREASE CO.,
Salem, Mass, May 11, 1936.

Hon. D. I. WALSH:

Ninety percent of that awful thing called industry is composed of outfits like this which you fellows feel should be put in their places, and how. This concern was started with a $1,000 loan, 27 years ago; never was a cent put in but out of profit (that terrible thing). Today it is valued at about $250,000, all from earned surplus. Employs 30 people, paying 1929 rates of pay. Never cut anyone's pay, fired one man in all those years. Employees get full-time pay during sickness or injury, 2 weeks' vacation with pay, and never laid a man off. In fact, employing more now than during 1929. All this was because the owners took small salaries and put surplus back in the business. Our present oversurplus is to be used for pension purposes.

Personally it doesn't make any difference to me, if surplus is distributed by force. I'll get mine, but the poor fellows that work here will not, and when tough times come, out they go. When they get old, out they go; when they are sick, ditto. When we need new machines or more buildings, use the old, no surplus.

The worst of it is that you are preventing young concerns today from ever amounting to much. The old ones can get along, but it's a hell of penalty on youth and vigor and only making the outlook for youth more gloomy than it is, and God knows its terrible.

Raise the income-tax rates if you must, but for God's sake don't penalize thrift.

Sincerely,

H. T. N. SMITH, *President*.

HUDSON, MASS., *May 13, 1936.*

Hon. DAVID I. WALSH,
Senate Chamber, Washington, D. C.

DEAR SIR: I ask you to use your influence in the Senate against the bill to take away surplus of corporations, now before the Senate committee.

As a concrete example, if we had not held back some of our earnings and put them into surplus we would have been in a very serious position this year on account of the flood we had last March, as we had damages of about $30,000 to our stock and machinery. This of course was an entirely unseen emergency, and if we had no surplus it might have seriously crippled our business.

We do not think that after it has been taxed once it should be taxed a second time and we trust you will vote against this most unjust legislation.

I remain,

Very truly yours,

HUDSON WORSTED CO.,
H. T. DYSON.

WEST SPRINGFIELD, MASS., *May 8, 1936.*

Hon. DAVID I. WALSH,
Senate Office Building, Washington, D. C.

DEAR SENATOR WALSH: From the study I have been able to make of the proposed Federal tax bill of 1936, it seems to me that this method of taxation is entirely unsound and undesirable.

If I interpret it correctly, I believe that in the future it would be practically impossible to build up a company like the Strathmore Paper Co., which was started over 40 years ago, on a very small amount of capital and which has grown to a company capitalized at $12,000,000 almost solely through "plowing back" of earnings.

Frankly, I do not see how the small company and the one of medium size can be in a position to withstand a long period of depression if a heavy penalty is imposed for building up in good times, reserves to take care of the proverbial "rainy day."

All of these contentions you have undoubtedly heard many times before, but from close contact with the vicissitudes in building up a company for over 40 years, I feel that I may be in position to judge in such matters better than individuals who have never been obliged to meet a pay roll regularly or provide means for keeping employees at work during times of slack business when very definitely there was very little for them to do.

It is very easy to consider some of our very large corporations with their big incomes and the heavy reserves they are able to

build up and try to force a distribution of such reserves, but it is an entirely different matter to apply similar measures to small and medium-sized concerns without wrecking them or making it impossible for them to grow and prosper.

As the great majority of Massachusetts corporations are of the latter class, may I urge that you give this matter very serious consideration before deciding to vote for the proposed bill?

Very truly yours,

STRATHMORE PAPER CO.,
H. A. MOSES, *President.*

P. S.—In the past 25 years Strathmore Paper Co. alone has paid out $20,947,000 in wages and salaries, on a yearly average of $837,844. Is it worth while to have small companies start business and grow?

In our particular case, which is fairly representative of thousands of such companies, the growth has been dependent upon earnings plowed back into the business. Under no consideration could I have raised the necessary capital outside the business.

H. A. MOSES.

B. F. STURTEVANT CO.,
Hyde Park, Boston, Mass., May 15, 1936.

Subject: Federal revenue bill for 1936.

Hon. DAVID I. WALSH,
Committee on Finance, United States Senate,
Washington, D. C.

DEAR SENATOR WALSH: I desire, on behalf of this company, to register an emphatic protest against the tax provisions of the Federal revenue bill of 1936, which has recently passed the House and is now before the Senate Committee on Finance. This bill, as now drawn, will have an absolutely ruinous effect on this concern and will impose an unreasonable and unjust penalty on its stockholders.

This concern, the B. F. Sturtevant Co. was founded almost 80 years ago; it is now the representative concern in the industry of ventilation, air-conditioning, etc. It employs about 1,500 people, does a business, in normal times, of about $7,500,000, and makes about $400,000 profit, if all goes well. It has a capital of about $5,000,000, every cent of which has been supplied out of its own earnings, which have been plowed back into the business, year by year. No outside capital has ever been put into the business, no stock or bond issue has been put out, nor has the concern gone into Wall Street for money. It is a private concern, which has been built up in the traditional New England manner.

We are a heavy-goods industry, and, like all concerns in this line, have suffered tremendous losses during the past 5 years of depression. Over half of our cash working capital has been lost, but we have operated continuously and kept the bulk of our force employed.

To replenish the lost working capital, recourse has been had to the banks and an agreement made with the Federal Reserve Bank of Boston, and others, whereby sufficient money has been furnished, on the stipulation that it will be repaid quarterly during the next 4 years out of profits, and that no dividends shall be declared to the stockholders meanwhile. Dividends, by the way, have not been paid since 1931.

It is evident that we must make money during the next few years, in order to pay our debt to the Federal Reserve bank. It is also evident that we must replenish the working capital, lost during the depression. It is necessary also to build up additional working capital funds to meet the natural expansion in this industry.

The capital market is not open to a private concern of this character. We are unlisted and the Federal Securities Act has, to all intents and purposes, closed the door; under existing conditions, we cannot put out an issue to obtain necessary capital. It must be acquired by savings, out of profits to come.

The proposed tax bill knocks the props right out from under us. It subjects the company and its stockholders to an unjust and unreasonable penalty if it continues to do what is required by its agreement with the Federal Reserve Bank (an agent of the Government), or if it attempts to replenish its losses in the only manner open to it, under existing conditions.

This proposed tax will have an absolutely inimical effect on New England industry, most of which is private, unlisted and built up by savings out of earnings. If ever a law was designed to "kill the goose", this law is the one. The very reserves, which saved us during the depression and enabled our New England concerns to keep a large part of their employees off the relief rolls are now to be taxed out of existence and we are to be prohibited from building up new reserves to meet another depression.

Very truly yours,

BENJ. S. FOSS, *Treasurer.*

THE F. A. BASSETTE CO.,
Springfield, Mass., May 5, 1935.

Hon. DAVID I. WALSH,
United States Senate, Washington, D. C.

SIR: We wish to point out briefly with reference to the now pending tax bill (H. R. 12395) some points which it seems to us would work injustice to companies like our own.

The F. A. Bassette Co. was organized in 1901 as a Massachusetts corporation with a paid-in capital of $17,000 and no additional capital has ever been paid into the company.

As of December 31, 1935 the company had capital and surplus of $285,421.84 represented by 4,200 shares of preferred stock ($65 par value) and 4,200 shares of common stock. This stock was held by 12 individuals each daily engaged in conducting the business of the company, each holding common shares equal in number to their preferred stockholdings.

The company has been conducted largely as a cooperative enterprise. The articles of incorporation provide that only employees may be shareholders, and that upon the death or withdrawal of any individual his stock is to be purchased by the company at its then book value and may be resold to other employees on an extended-credit plan.

All of the principal employees are stockholders. All employees participate in an annual distribution of 15 percent of the company's net profits. For the average of the 10 most profitable years, dividends averaging approximately 38 percent of net profits after profit sharing and taxes, have been distributed to stockholders, the balance of net profits being used for increasing the company's plant and other corporate needs.

Under the company's plan of stock retirement and employee ownership it is necessary to carry either cash reserves or life-insurance policies in an amount sufficient to meet its contractual obligation to purchase stock. At December 31, 1935, it had reserved cash and United States bonds in the amount of $50,919.05 as partial provision for stockholders whose lives were not insurable. It had insurance policies in the total amount of $290,500 in force on the lives of nine other stockholders.

The annual addition to the cash reserve funds required by corporate action is $6,500 (plus income of the invested funds). The annual premiums on life-insurance policies total $12,951.30. Thus a total of approximately $20,000 per year is withdrawn from the corporation's income or distributable surplus and reserved to provide for the dependents of a deceased stockholder employee.

Incidentally, all of the stockholders are individuals of modest means and income, and had all of the company's prior earnings been distributed the effective rate of tax on the individuals would have averaged much less than the rate paid by the corporation.

Under the provisions of the proposed new bill the company will not be allowed to deduct the annual payments required as above set forth either in determining its "adjusted net income" or its "undistributed net income." Assuming that its annual net income might average $30,000, before deduction of these items, not more than $10,000 could possibly be available for dividends and tax. However, approximately $11,230 would be required as the tax on "adjusted net income", and the company not only would be unable to make any dividend distribution, but would have insufficient cash to pay its tax.

Take the case of those small corporations which have weathered the depression only by grace of their bankers, whose loans, although capital in nature, mature, and are renewed every 3 or 4 months. If current earnings are applied to reduction of bank loans, as the banks will properly insist, the corporations cannot escape tax at the maximum rates.

Larger corporations may be able to entirely avoid the tax by distributing all of their income and acquiring needed capital by security issues—a plan which is not available to small companies like our own.

We believe the inevitable result to our company would be that the company would not only not be able to provide for the gradual but continued expansion which it enjoyed for over 30 years—but that it would be seriously handicapped in—if not forced to abandon—its plan of cooperative ownership.

We realize it is necessary to raise taxes. Why not tax the profits of corporations heavily if necessary, but leave with them the means to continue to expand their business in a reasonable way?

Respectfully yours,

W. H. MITCHELL, *President.*

THE VULCANIZED RUBBER CO.,
New York, May 6, 1936.

Hon. DAVID I. WALSH,
United States Senate, Washington, D. C.

DEAR SENATOR: Monopolies would be fostered, in our opinion, if the proposed tax on undivided surplus should be adopted. Take, for illustration, the position of this company, which is a relatively small factor in our industry. We have as one of our competitors the B. F. Goodrich Co., whose total assets are about $124,000,000, including over eight millions in cash, as against our own total assets of $928,000, including $37,000 cash. Our most active competitor, the American Hard Rubber Co., while nowhere nearly so large as Goodrich, is yet a giant as compared to us, with total assets of over seven millions, including cash of $460,000.

During 1930, 1931, and 1932, we lost $281,000. A large part of this loss was due to an effort to keep at work as many as possible of our 400 employees. If we had not built up a surplus before 1930, we would simply have been wiped out. Unless we are permitted to rebuild this surplus, we cannot successfully compete with our huge competitors nor can we survive another big depression. In the last 3 years we have recovered a little more than a third of these losses, and we still have a long way to go to be where we were in 1929.

Therefore, we should much prefer an increased tax rate on profits to a penalty tax on undistributed earnings. Many of our 400 employees have been with us for 30, 40, and even 50 years, and we think we and they have a right to the protection that only cash and security reserves can give. The bees and the squirrels have the right idea.

Respectfully yours,

S. H. RENTON, *President.*

STATEMENT MADE UP BY A MR. WESTON IN REFERENCE TO THE NEW TAX BILL

MAY 12, 1936.

If Raymond H. Whitcomb, Inc., has income of $200,000, it would have to set aside for its borrowed preferred stock a sinking fund of $54,000.

If it then paid $98,000 dividends, its tax would be $36,000 under the proposed 1936 Revenue Act, assuming no benefit from sections 14, 15, or 16.

Adding up $54,000 sinking fund, $98,000 dividends, and $36,000 tax makes $188,000, which would leave the company only $12,000 to add to its working capital out of the year's income.

If, however, the company got the benefit of section 15, with respect to $54,000 set aside for the sinking fund, its tax would be not $36,000 but $27,000, and it would have approximately $9,000 more to add to the working capital.

If the company were to pay out not $98,000 but $72,000 (endeavoring to add in this way to its working capital), its tax would be $49,000, if it received no benefit from sections 14, 15, or 16. It would then be paying out $54,000 sinking fund, $72,000 dividends, and $49,000 tax, making a total of $175,000, and so still have only $25,000 left to add to its working capital.

It will be noted that the difference between $98,000 dividends and $72,000 dividends is $26,000. Of this $26,000 under the foregoing computation, the taxpayer is allowed to keep half (difference between $12,000 and $25,000 added to the working capital, equals $13,000) and the Government tax (difference between $36,000 tax and $49,000 tax equals $13,000).

Assuming $72,000 paid in dividends and assuming that the company nets the benefit of section 15 with respect to the $54,000 sinking fund, the tax would be approximately $38,000 instead of $49,000, giving the company approximately $11,000 more to add to working capital.

If the company pays no dividends, its tax is $85,000 without the benefit of section 15 and about $71,000 if section 15 is made to apply. Paying out this tax and also paying out the $54,000, the sinking fund still left only about one-third of the company's income to add to the capital.

MILLERS FALLS CO.,
Greenfield, Mass., May 11, 1936.

Hon. DAVID I. WALSH,
Senate Office Building, Washington, D. C.

DEAR SIR: We wired you on May 9, as follows:

"Tax bill passed by House will greatly retard industry and be ruinous to small companies with limited capital. Hope you may favor a more reasonable tax."

We would like to be a little more explicit than is possible in a telegram. Our reference to "small companies" should not be taken to mean companies having a net income of $10,000 or less. It rather refers to the typical business which has been the backbone of industrial New England for a great many years, having annual sales ranging anywhere from $500,000 to $3,000,000.

The vicious part of the proposed law is that it places a tremendous handicap on industries of this size and type which have inadequate working capital. A great many such concerns have managed to emerge from the depression, but in a weakened financial condition, with run-down plants and equipment, and reduced markets. What they need badly at the present time is the restoration of their plant equipment and markets, which can only be accomplished by the expenditure of large sums of money.

To be more specific, let us take the case of a firm whose annual sales are $2,000,000, and who in 1936 might earn $125,000 net profit. This concern during the depression had depleted its entire working capital and borrowed heavily in order to exist. This concern has also refrained from paying dividends for a number of years in order to conserve its resources and to keep its business as active as possible and employ as many of its people as possible. Under the proposed tax it would in the future be forced to pay its dividend on its preferred stock, which would take approximately 50 percent of its net income. Then, deducting the Federal tax from the remainder, it would leave only approximately $16,000 out of the $125,000 net profit at the disposal of the company. This would be before taking the Massachusetts income tax, which, when deducted, would leave only approximately $13,000.

This concern would like to put back into its equipment, in the way of repairs and replacements, approximately $50,000 a year. If allowed to expand its business along a normal course, it would need to add at least $50,000 a year to its working capital. This addition to its plant equipment would mean buying from the heavy industry and thereby increasing employment therein; the addition to its own working capital would employ additional men to produce the additional goods which it would sell.

In addition to the disbursements mentioned above, the company would still be obliged to pay off the balance of its loan, borrowed during the depression, of approximately $100,000. It is obvious that the condition which the Federal tax law imposes, leaving the company with a balance of approximately $16,000 out of its earnings of $125,000, is such that the carrying out of its program will be impossible and its own business will be retarded, and it furthermore will not be able to contribute to the business of other industries. Surely no bank, individual, or even the Government itself, would make a loan to such a company without the prospects of repayment.

Respectfully yours,

EARL D. HULTBY.

ALVEY CONVEYOR MANUFACTURING CO.,
St. Louis, May 8, 1936.

Senator DAVID I. WALSH,
Senate Office Building, Washington, D. C.

Re proposed tax bill—corporation surplus tax.

DEAR SENATOR WALSH: Permit us to protest against the wisdom of indiscriminately taxing undistributed corporate profits. This might be quite all right for the relatively few tremendous and well-financed corporations that already have immense surpluses, but it would work a very definite hardship on the multitude of small companies throughout the country.

You realize, of course, that such a proposed tax would "freeze" the corporate structures of all those companies and, sadly indeed, "freeze" them at the present existing near-depression levels. How in the world will the smaller companies ever be able to make progress and achieve growth under such a taxation program? To "freeze" the corporate structures of the smaller businesses would, I believe, indeed be a calamity. Surely it cannot be the intention of a deliberative Senate to inflict any such terrible hardship on business, sentencing business structure to their condition at time of passage of such a law and making it practically impossible for them to grow or prosper through the necessary process of "plowing back" into their own small business, a proper proportion of profits if, as, and when made.

I hope you realize what a serious problem the proposed taxation of undivided profits creates for small businesses and small industries in our country.

Legislation as is proposed requires, I believe, long study and deliberation after the most complete public hearings and investigations.

Would it not be better to set up temporary taxes, such as reasonable graduated increase until a better planned bill can be more thoroughly worked out?

Again, please consider that capital improvements, such as new machinery, equipment, buildings, etc., are almost always financed out of profits. Under the proposed tax bill this would mean that the sales of all new machinery, equipment, etc., would be further handicapped by the new tax on undistributed profits which would apply in such cases.

And, Senator, I believe you will agree that the capital- or durable-goods industry in this country, and particularly the smaller companies, have already endured sufficiently hard sledding. Those that had acquired sufficient surplus, have managed to come through the depression times, but this is solely because of the surpluses they were able to build up in predepression times.

Your consideration of these points in connection with the proposed tax on undivided profits is respectfully urged.

Very truly yours,

ALVEY CONVEYOR MANUFACTURING CO.,
IRA L. BRETZFELDER, *President.*

IVERS & POND PIANO CO.,
Boston, May 12, 1936.

Senator DAVID I. WALSH,
United States Senate, Washington, D. C.

MY DEAR SIR: The Federal revenue bill for 1936, featuring taxes on undistributed earnings of domestic corporations is now before the Senate's Committee on Finance. Undoubtedly you have received from intelligent corporation executives throughout the country, many letters pointing out the unsoundness of the provision referred to above.

Possibly, however, specific instances of the injustice and paralyzing influence such a provision would have had on the country in the past and will have in the future if enacted, may not have been brought to your attention. You may have heard of the corporation on whose letterhead I am writing. Ours is a typical example of the development of a business from small beginnings by reinvested earnings. Founded in 1880, the earnings of the corporation were plowed back into surplus for approximately 20 years. The capital stock was never enlarged from its original figure of $10,000, while the surplus went into the hundreds of thousands, all necessary capital required by the growth of the business. At no little sacrifice to the founders of the business, the corporation was thus enabled to expand, make its product nationally known, and to give employment to hundreds of employees and furnish working capital for scores of merchants throughout the length and breadth of the land. In no other way could this have been accomplished. It was an example of growth through savings, and the principal beneficiaries were the employees of the corporation.

With this experience before me, it would seem superfluous to say that I am heartily opposed to the proposed tax on undistributed corporate surplus, and I hope your influence will be cast against any such destructive menace to American business.

Very respectfully yours,

CLARENCE H. POND, *President.*

NEW YORK, N. Y., *May 12, 1936.*

Hon. DAVID I. WALSH,
Senate Office Building, Washington, D. C.

DEAR SENATOR WALSH: In the interest of candor, the pending revenue measure, if adopted, should be entitled: "A bill to sustain and promote monopoly."

As passed by the House, this measure strikes at the very vitals of our most cherished tradition—equality of opportunity.

When I recently appeared before the House Ways and Means Committee, I pointed out that it was significant that no representative of any real big corporation appeared in opposition to the bill. The reason is obvious, for the pending measure gives big business the nearest thing possible to a Government guaranty against future competition.

The Axton-Fisher Tobacco Co., which I represent, is one of the smaller units in the cigarette-manufacturing industry. Its working capital is provided by bank credits. The business has possibilities of substantial growth, if it is free to apply its excess earnings to pay off its indebtedness and to provide for expansion facilities.

Its large competitors, on the other hand, have many millions of dollars in accumulated surplus, and are practically free from bank indebtedness. Although they started from modest beginnings, they reached their present size by reinvesting each year a substantial part of their earnings in their business. Today, practically all of their earnings are paid out annually in dividends, for they have no need of added surplus.

If the proposed revenue measure becomes law, strong competitors would become stronger because in distributing their earnings, as they now do, they would not be required to pay any taxes at all; whereas, companies situated like our own would become weaker because they would, in effect, be penalized in applying their earnings to the liquidation of debts, or in using them to expand production facilities. In such a situation, real competition would soon cease because the source of competition, which lies in the opportunity to grow and expand, would be cut off at the source.

The proposed revenue measure, if passed, would not only "freeze" the present status of industry, but would inevitably tend to make the strong units stronger, and the weak ones weaker. In this lies the greatest threat to the American tradition—equality of opportunity.

I beg to enclose herewith a pamphlet which summarizes the arguments which I made before the House Ways and Means Committee. I should welcome the opportunity to appear before the Senate Finance Committee to present these views in detail.

Respectfully yours,

DEAN ALFANGE,
General Counsel.

PARKS-CRAMER CO.,
Fitchburg, Mass., May 13, 1936.

Senator DAVID I. WALSH,
Senate Office Building, Washington, D. C.

DEAR SIR: Since the final outcome of taxing undistributed surplus of corporations is of extreme interest to our stockholders, may I take a little of your time to represent them?

From 1930 to 1935, inclusive, our business volume made profitable operations impossible. During that period we dug into our reserves nearly $200,000—or $228.10 per employee per year. That, plus wages and salaries paid, was the price this one small company paid to keep its employees off relief rolls. In other words, it was recognized that a surplus was for the definite purpose of tiding over lean periods.

Is it not pertinent to inquire what would have happened had a surplus not been available? Had such a bill as is now pending been in force, making full distribution of earnings in effect mandatory, there would now be no jobs for these same employees—and no corporation to tax. Not unlike a farm, business fields must be fertilized or the field has a habit of running out.

Please do not misunderstand me. What has happened in this country during the past 3 years has got to be paid for, somehow, sometime, and by all of us. If taxing business out of existence were the only outcome, it might be justified in an emergency, but will not the effect be more far reaching? Does it not strike at our cherished form of Government and at society itself?

And it is about this rather than its immediate business influence that should be the chief concern of all, particularly of our legislators.

Yours very truly,

H. M. PARKS, *President.*

WORCESTER, MASS., *May 8, 1936.*

Hon. DAVID I. WALSH,
Senator, Washington, D. C.

MY DEAR SENATOR WALSH: Re embryo corporations tax bill—

Permit me as one for a lifetime largely involved in two family textile corporations in Massachusetts, much of the time a desperate struggle, to urge you to support or to have inserted these two provisions:

(1) That corporation taxes or dividend pressure, should be distributed over a 3- or 5-year average of profits or losses—not based arbitrarily on the result of one hard and fast year.

(2) That extraordinary losses, at least of the "act-of-God" class, likewise be distributed through surplus over a series of years.

The fairness of such distribution toward giving, particularly to a small corporation, a "break", seems to me so obvious that it is axiomatic.

On the contrary, the unfairness and the possible strangulation of a concern can be imagined from this illustration, in which it is assumed there is no such protection.

It makes $20,000 in 1 calendar year, and is forced to pay tax or dividends therefrom. In the succeeding year it loses $20,000, but all in January. At the end of the 2 years it has only broken even, but has paid a large tax or has been forced to disgorge dividends. If its years had run from February 1, instead of January 1, its taxation or its cash depletion would have been nil, and would have corresponded to the actual facts. A 3-year average would have helped much in this case; and a 5-year, more.

As for (2), one of my concerns (Comins & Co. Inc., Rochdale), is struggling yet with flood repairs of some $30,000. We will be lucky if this year's profit is not absorbed by only one-third of this amount. If the Government wishes us to continue to operate, employ workers, and contribute taxes, the least it can do is to help us withstand a stroke which has almost staggered our small community concern.

On general principles, if the employee is to be allowed to average his remunerative years over the old-age ones of loss, why should not his employer who makes such possible, be allowed to average to some extent, the health and sickness of his business—which is the boat in which they all ride?

With best regards,

Yours very truly,

ARTHUR C. COMINS.

BOSTON CHAMBER OF COMMERCE.

[Telegram sent to Massachusetts Congressmen, Washington, D. C., Apr. 27, 1936]

Pending revenue act, although damaging to all types of corporate business, would be exceptionally severe upon New England business. We urge that you oppose it. A characteristic of New England business has always been its successful efforts to maintain stability and pursue prudent financial policies. The pending act directly penalizes attainment of these efforts. It means the compulsory injection of unsound practices in business management which, uniformly applied, will react unevenly and with undue unfairness on many firms. We believe the results will be discouragement of legitimate expansion, further loss of confidence so necessary to economic revival, and sustained or increased unemployment, and in general will tend toward social insecurity.

E. E. WAKEFIELD,
Acting Chairman, Committee on Federal Taxation and Expenditures.

SIMONDS SAW AND STEEL CO.,
Fitchburg, Mass., April 24, 1936.

Hon. DAVID I. WALSH,
Senate Office Building, Washington D. C.

DEAR DAVE: Regarding this proposed new tax, in 1922 and 1932, such a tax would have wiped our company out of business. If we had had such a tax the depression would have been very much more severe. In our plants we lost $1,000 a day, and our surplus had to be put into pay rolls to hold our organization together. There was no way of selling securities in these periods, and the banks would not make us increased loans, so that we had to use our past savings.

We have run along more or less consistently with our help for 30 years, discharging very few, but with a tax such as this new one, we would have to let go practically all of our people during a depression and then organize again when business was better. This may be the best for the country, but I am quite sure that I would have no interest in business, neither would the other leaders in our firm. The serious penalty is on conservatively managed business. At the present time the Government are not handling their business conservatively with their immense expenses.

I sincerely hope you will see your way clear to oppose this corporation tax.

Sincerely yours,

GIFFORD K. SIMONDS.

THE E. L. PATCH CO.,
Boston, Mass., April 27, 1936.

Hon. DAVID I. WALSH,
Senate Office Building,
Washington, D. C.

DEAR SENATOR WALSH: I was pleased to read in press reports that you are not as enthusiastic about increasing taxation as you are about cutting down expenditures. I would assume that one brought up in New England would not be too enthusiastic about dissipation of assets in times of good business. The proposed new tax bill might well be labeled "an act to dissipate assets."

Our company is like many New England companies who have operated for many years on a conservative policy, on a small capitalization. For many years we had no profits to tax. Then came a few prosperous years. Most all of the profits of these few prosperous years were conserved, first by paying debts, then by investing in bricks, mortar, machinery, and research.

This investment proved to be a wise one for The E. L. Patch Co., for our employees, and for the town of Stoneham. During the last 5 years when employment and wages have been so essential, we have kept up the number of employees and the wages far above the level that would have been our maximum if we had not invested more than 80 percent of our earnings for a few years. To do this we had to draw heavily on the reserves we had established.

If the proposed new tax law had been in effect during 1926, 1927, and 1928 the story would be an entirely different one for all concerned, including our good Uncle Sam. We would have paid larger dividends to avoid excessive taxation. The investment in building and other facilities never would have been made.

Debts would have remained. There is a strong possibility that by the year 1932 we would have been entirely out of business. At best we would have had many less employees, on smaller wages and salaries, with less than half the tax payments to the town of Stoneham, very little in tax payments to the State of Massachusets, and little, if anything, to the Federal Government.

Ask any citizen who knows the facts, what it has meant to the town of Stoneham to have the E. L. Patch Co. continue during these tough years, with wages, salaries, and dividends. I will tell you frankly it could not have been, if the proposed law had been in effect.

Without doubt many substantial, desirable corporations are right now in the position we were in, previous to 1926. A few years of good earnings might enable them to solidify so as to be real factors in the future prosperity of their communities. Some of these might be able to carry a big load when the next business slump comes. Why slowly strangle so many of these geese that might later lay the golden eggs that would prevent so much hardship and suffering?

If one follows through only from the point of view of final tax income to Uncle Sam, it seems to me very short-sighted policy to choke thousands of potential sources of taxes to punish a small number of businesses that carry on contrary to the ideas of some of our theorists, who never had the responsibility of providing a payroll 52 weeks in the year.

We know we must pay heavy taxes for a long time to liquidate our present debt. All my business experience tells me this new theory of taxation will prove to be a demonstration of the theory of diminishing returns.

Sincerely yours,

RALPH R. PATCH.

MEADVILLE, PA., *April 7, 1936.*

Hon. DAVID I. WALSH,
United States Senator,
Washington, District of Columbia.

DEAR SIR: As a prominent member of the Senate Finance Committee you will no doubt have much to do with the proposed plan of taxing corporation surpluses. Permit me as the president of a small corporation to write you my views on this subject.

I am strongly opposed to the proposed tax, not only as a general policy, but also because of its very serious effect on small companies. The present administration has definitely adopted a business and social policy which is unfavorable to bigness in industry and favorable to the smaller enterprises. This proposed tax plan works exactly contrary to this philosophy of business. It will help the big company and sound the death knell of thousands of small businesses.

The McCrosky Tool Corporation is not a large company, as previously stated. Our total invested capital is approximately $350,000. We entered the depression with no liabilities of any kind and with cash, Government bonds, and accounts receivable of approximately $85,000. We adopted the policy of maintaining our organization and keeping employees on the pay roll just as long as possible during the depression years. If it had not been for the comfortable little surplus of cash and Government bonds which we had gradually accumulated, we would have gone out of existence during the depression. In other words, if we had been operating under a tax policy that compelled us to pay out the greater part of our earnings in the form of dividends, we would have had no surplus and our company would have been unable to weather the depression storm. Surely it is not only the height of folly but it is a crime against American wage earners to jeopardize the existence of conservatively managed small businesses which are the backbone of American enterprise, by making it impossible for them to provide for a "rainy day."

Before the depression was over our cash and bonds had been largely exhausted and it became necessary for us to borrow approximately $25,000 from local banks to keep the business operating. It is unthinkable that our Government would adopt a tax program that will practically make it impossible for us to take our earnings to pay off these bank loans. If we were compelled to pay out the greater part of our earnings in dividends, it would take us many years to liquidate these bank loans and begin the accumulation of another little surplus against the inevitable "rainy day." This is not in the interests of either good business or good banking.

During the depression years it was practically impossible for a little concern like ours to purchase new equipment in order to offset the inroads of depression and obsolescence. Remarkable improvements have been made in mechanical equipment during the last 5 years and no concern can successfully compete that does not replace obsolete equipment with more modern and more efficient equipment. The tax program that is proposed would make it impossible for us to modernize our plant and thereby maintain our position against legitimate competition. Surely our Government must appreciate the importance of the so-called heavy industries and durable-goods industries in our industrial structure. Now a tax program is proposed that will make it very difficult for companies like ours to buy new machinery and therefore do our share in assisting the durable-goods industries, to say nothing of operating our own business on a successful and efficient basis.

Of course, academically, it might be said that if our earnings were paid out in the form of dividends, we can expand our business and increase our working capital and modernize our plant and build up cash reserves by the simple expedient of increasing our capitalization and selling more stock. This argument is purely academic. It might be possible that a large company whose stock is listed on the exchanges and is in constant demand by the investing public could accomplish these things by selling additional stock. The small company, like ours has no access whatever to the capital markets and no one would be interested in our capital stock except a few members of our own organization and it might well be that none of them would have the money nor the disposition to purchase additional stock. In other words, this plan of selling stock to raise capital is absolutely not feasible for the small company. Its only result would be to increase the size of bigness in business and to kill off the small companies within a very few years.

If the administration is sincere in this philosophy of helping the "little fellow" and discouraging bigness, then why not exonerate the smaller companies entirely from this new tax on earnings until the "little company" has grown to a certain size? Surely no company can be considered dangerously big with earnings of say $100,000 a year and with an invested capital of $500,000. In fact, it is difficult for most concerns to be efficient either from the standpoint of production or distribution if they are much smaller than that. Why not allow the present income-tax rates to apply against small businesses and then work out some kind of tax that would discourage great corporations from piling up surpluses that are obviously larger than necessary and which might be interpreted as dangerous to the best interests of society through the concentration of wealth and power.

You will pardon me for expressing myself at such length. You will admit, however, that I have merely taken time to touch a few basic principles, each one of which might be developed at great length. I plead with you, as an executive of one of America's small manufacturing enterprises which has had a fine successful, conservative record for 30 years, to consider the validity and truth of the points I have raised. It is difficult to conceive a greater tragedy in the history and progress of the American people than to put into effect a program that must obviously end in the results I have tried briefly to mention. Our little company has grown during the last 30 years almost entirely from "plowing in" its profits, the original investment amounting to only $40,000. We have also paid satisfactory dividends in good years. Our whole organization is filled with the spirit of growth and progress and we hope to continue growing by "plowing into" this business a goodly share of our earnings. There are only about 30 stockholders, most of whom are more interested to see the business grow and prosper than they are in a little return from their comparatively small stock holdings. We employ approximately 100 people, most of whom are home owners and a fine class of skilled workmen, sales engineers, office employees, mechanical engineers, etc. If America expects to expand industrially and to provide economic security for its people and to absorb some of the millions who are out of employment, it must be done by the growth and success of American business and not by killing off of thousands of small, progressive, growing concerns which can only prosper and grow by "plowing in" much of their profits, and which must pay off their debts and accumulate a reasonable surplus out of their income to insure their corporate existence. To do otherwise, to be compelled to distribute earnings before these things are accomplished would jeopardize the economic security of millions of America's employees and thousands of America's business enterprises. We have cited our own case as merely typical of the great majority of business concerns.

Respectfully submitted,

MCCROSKY TOOL CORPORATION,
F. P. MILLER, *President.*

ERVING, MASS., *May 15, 1936.*

Hon. DAVID I. WALSH,
Senate Office Building, Washington, D. C.

[The Federal tax bill of 1936]

DEAR MR. WALSH: This bill is now being considered by the Senate, and thinking we are more or less typical of many Massachusetts corporations, we submit the following:

For many years, from 1917 on, this company was losing money fast so that 10 years ago we owed several hundred thousands of dollars to five interests. These five interests made us a low interest rate and carried us along with, for a good many years, no payments. However, during the last 10 years we have been doing better so have paid off about 40 percent of this amount.

If this bill should go through as proposed, we understand that along toward half of the profit we have paid on these old debts would have been appropriated by the Government. We still owe nearly $200,000 which we are most anxious to get paid, but what show will we have if the Government appropriates such a percentage?

Maybe there are conditions we do not understand, but submit above for what you find it worth.

Yours very truly,

ERVING PAPER MILLS,
S. C. WAITE, *Treasurer.*

EAST CAMBRIDGE, MASS., *May 14, 1936.*

Hon. DAVID I. WALSH,
Senator from Massachusetts,
Washington, D. C.

DEAR SENATOR: In regard to the new corporation tax bill in Congress, we wish to give you an idea as to the effect on any comeback of small corporations which have been in red during the years of depression.

Our own company started in 1923 with $75,000 cash paid in capital; paid its preferred dividends up to 1931 and since then has shrunk its capital $40,000, while keeping its crew of about 10 men who otherwise would, in many cases, had to go on the welfare. We cannot, of course, pay any dividends while capital is impaired and any earnings would go to repair lost capital.

If, in the future, we are taxed too heavily on any earnings our stockholders may decide the game is not worth while and decide to liquidate, which would be too bad for our employees and the taxpayers.

Corporations need more than any dividends earned to provide for increased employment, expansion, and reserve for poor times.

We believe the better way for revenue is to broaden the base of individual income taxes, say around $5,000.

Respectfully yours,

RESISTO PIPE & VALVE CO.,
GEO. A. NASH, *President.*

ATTLEBORO, MASS., *May 14, 1936.*

Hon. DAVID I. WALSH,
U. S. Senator from Massachusetts, Washington, D. C.

DEAR SIR: With reference to the Federal revenue bill for 1936, I am very apprehensive that if this bill goes through as it is now drawn that it will possibly force many of the small- and medium-sized concerns out of business.

Our corporation is fairly representative of many that I could mention. We have been operating for 17 years and have made some progress. We have been able most years to pay a dividend and also have been able to pay a reasonable amount of Government taxes during this time. We have created a small surplus and have continued to improve our equipment by purchasing new machinery moderately.

We have also had in mind the possibility of building a new plant to replace the inadequate quarters that we are now leasing. If this bill goes through it would probably preclude our company's doing any of these things planned, the result of which would be that in a short while our plant equipment would be obsolete and inadequate for our requirements. Whereas, if the surplus we have could be left for the purpose for which it is intended, we would be able to go through the depression and come out with a view to expanding and increasing our facilities.

We have built up a substantial foreign market for some of our products in the last few years, but in order to sell our products in foreign markets it is very necessary for us to be able to produce same to the very best advantage. Unless we can add improved equipment to our machinery, it is doubtful if we can continue to hold this market.

The same also applies to the domestic market to a lesser extent.

With the proposed new taxation, it will be impossible for us to carry on in the way we planned, and the result would be that eventually we would probably have to go out of business to the detriment and loss of our stockholders.

We might say that there are a number of manufacturers in this town who would be in a like situation, and it will be a great blow to the city of Attleboro and its industries if a modification cannot be made to change the plan.

We hope that you will give this plea your most earnest and sincere consideration.

Yours very truly,

MOSSBERG PRESSED STEEL CORPORATION,
FRANK MOSSBERG,
President and General Manager.

BUFFALO, N. Y., *April 25, 1936.*

Hon. DAVID I. WALSH,
Senate Office Building, Washington, D. C.

DEAR SIR: The proposed new basis for taxing corporations will undoubtedly act to stunt the economic growth of small corporations and will rob large corporations of necessary reserves with which to reduce the ill effects of future depressions on labor and tend to increase unemployment.

These effects will be brought about without in any way benefiting the large number of stockholders by adding to the dividends received by them.

This business organization started over 30 years ago with a small capital as a sole proprietorship, with few employees, and has by thrift and frugality progressively invested annual earnings in the building up of a capital structure that has enabled it to continuously, all through the depression, employ 150 persons. Not only have no employees been discharged or laid off or wages reduced, but, on the contrary, working hours were reduced from 50 to 40 hours per week; and while under the N. R. A. minimum wages for men and women were 35 cents per hour, men have never been paid less than a minimum of 50 cents per hour, and women were increased under the code from 25 to 35 cents per hour minimum. These schedules are still in effect.

Had a large percentage of earnings in the past been dissipated in dividends and taxes, this sound economic growth in which our workers have shared so advantageously would have been impossible.

This letter attempts only to convey to you in a simple way the harmful effects of the proposed new taxation as it would apply to this simple, economic, but beneficial unit.

In considering corporation taxes we sincerely trust that due thought will be given the position of small corporations, for we believe a great majority of corporations are no larger than ours and exert about the same beneficial influence upon the economic lives of the people.

Respectfully yours,

THE ARNER CO., INC.,
CHAS. W. P. ATKINSON,
Vice President and Treasurer.

TILESTON & HOLLINGSWORTH CO.,
Boston, May 9, 1936.

Hon. DAVID I. WALSH,
United States Senate, Washington, D. C.

DEAR SENATOR WALSH: I desire to protest against the proposed corporation tax bill—

1. Because as a practical matter it places small corporations at a disadvantage as compared with large ones.

2. Because it places one more serious obstacle in the way of small corporations in their effort to meet their debts and survive the depression.

3. Because the dividend policy of very few corporations is dictated by any consideration of tax dodging and it seems unfair to penalize the many in an effort to punish a few offenders.

4. Because it will create more injustices than it will correct.

5. Because it is likely to prolong the depression and to cost the United States Government more money than it will raise.

Sincerely yours,

EUGENE C. CLAPP, *Treasurer.*

BOSTON, MASS., *May 16, 1936.*

Hon. DAVID I. WALSH,
United States Senator, Senate Office Building,
Washington, D. C.

HONORABLE DEAR SIR: We as an old Massachusetts establishment doing business in this Commonwealth for the past 73 years make this appeal to you, one of our honorable Senators.

If the Federal tax bill of 1936 being considered by the Committee on Finance of the United States Senate should become a law, it would work a frightful hardship upon us.

By careful management we have come through the past 4 years of depression, maintaining a working force of some 40 men and women who would have otherwise been dependent upon welfare or other forms of charitable assistance for means of support.

During the past year it has been necessary for us to borrow funds to carry on our business. The repayment of this indebtedness we propose paying over a period of the next 3 years. However, we will be seriously handicapped in making payments by the taxes inflicted by this new tax bill.

The banks, anticipating the situation, are already making demands of us for payments in advance of the time due, which they would otherwise allow to remain if it were not for the fact that this bill is pending.

We therefore strongly urge you to use your influence to bring about the defeat of this bill, which will lay a frightful burden not only upon us but do irreparable harm to our employees, no doubt forcing thousands of small companies to close their doors, adding many more to the already vast army of unemployed.

Very truly yours,

WHITE-SMITH MUSIC PUBLISHING CO.,
C. A. WHITE, *President.*

DETROIT, MICH., *May 11, 1936.*

Senator DAVID I. WALSH,
Senate Office Building, Washington, D. C.

DEAR SENATOR WALSH: Enclosed is a pamphlet, which is self-explanatory. The writer has gone to this effort and expense in order to present to Members of the Senate and the House of Representatives the effect of the contemplated legislation upon this business.

The Federal Government in Washington cannot judge when this business should pay dividends, and this proposed bill is an automatic invasion of the rights of the employees and stockholders of this business.

This criticism is nonpartisan. The record will show that the writer contributed $1,000 to the National Democratic Committee, which certainly was an endorsement of President Roosevelt's 1932 platform and his actions during the early days of his administration. However, he has lost many supporters amongst our employees, officers, and stockholders, by reason of the fact that such a burden of taxation and extravagant governmental operation are indicative of gross incompetence.

It would seem that the executive and administrative branch of our Government completely dominates the legislative, of which you are a member. The Chief Executive seems to act on advice of a group of theorists and impractical college professors whom we did not elect to public office and hence should have no status.

It is not too late for the administration to change its tactics and again perform according to the campaign pledges set forth in the last Presidential election. We sincerely hope that such will be the case.

Very truly yours,

THE STANDARD TUBE CO.,
By GEO B. STORER, *President.*

THE CASE OF THE STANDARD TUBE CO. V. UNDISTRIBUTED PROFITS TAX BILL, H. R. 12395

The Standard Tube Co. (formerly Tubeweld, Inc.) manufactures welded steel tubing and tubular parts. These products are sold to the automobile, furniture, bicycle, electrical, and similar trades.

The Standard Tube Co. employs presently 125 men, and its average yearly pay roll, sales, and profit for the last 5 years are as follows:

	Pay roll	Sales	Profit
1931	$148,726.76	$543,547.35	[1] $100,781.37
1932	99,101.02	320,845.96	[1] 141,945.87
1933	55,730.91	360,692.82	[1] 3,090.79
1934	102,342.43	729,247.24	43,454.86
1935	88,038.49	648,682.24	54,935.50

[1] Loss.

On January 1, 1931, condensed balance sheet of the Standard Tube Co. was as follows:

Current assets	$139,754.47
Permanent assets	213,134.22
Other assets	66,612.67
Current liabilities	58,964.58
Other liabilities	12,671.87
Capital stock	168,800.00
Surplus	179,064.91

As of January 1, 1933:

Current assets	25,545.97
Fermanent assets	181,613.12
Other assets	5,960.72
Current liabilities	58,617.80
Other liabilities	74,200.06
Capital stock	170,795.28
Surplus	[1] 90,493.33

[1] Deficit.

As of January 1, 1936:

Current assets	130,771.24
Permanent assets	28,259.62
Other assets	21,723.73
Current liabilities	37,485.96
Other liabilities	54,634.13
Capital stock	159,933.00
Surplus	[1] 1,298.50

[1] Deficit.

During the depression the company's surplus account was entirely wiped out, and on March 20, 1933, a creditors' committee was formed in an attempt to save the business from failure. The president, George B. Storer, and his mother advanced additional funds to liquidate all small creditors' claims, and the larger creditors' accepted notes. The president had been serving without salary since 1930 and was not paid any salary until February of 1936. He now receives $500 per month.

By the most careful economy and judicious management it was possible to pay off the creditors and dissolve the creditors' committee on June 20, 1935.

During the depression the National Tube Co., a unit of the United States Steel Corporation, was able to take a large volume of business away from its small competitor, the Standard Tube Co.

The latter company was unable to meet this competition by purchasing new, modern equipment, being hampered by lack of working capital. By reason of the special price schedule put into operation by its large competitors under the N. R. A., the Standard Tube Co. suffered additional encroachments of its business.

The Standard Tube Co., in order to place itself in a position to compete with the large manufacturers of tubing and pipe, purchased, in January of 1936, a new tube mill at a total installed cost of $300,000. Funds to pay for this mill were raised by the sale of stock to company officers, employees, and stockholders, together with a small public offering. These funds, plus the earnings of the company, will, it is hoped, cover the cost of the new mill and provide the necessary additional working capital required. Substantially all of the earnings of the Standard Tube Co. will be required for some time to come to help defray the cost of this new mill and provide additional working capital. A small amount, representing normal interest rate on the investment, should be paid to stockholders. Without the installation of this mill the Standard Tube Co. would eventually be put out of business by its large competitors.

Furthermore, it is self-evident that the surplus, which was wiped out during the late depression, must be replaced in order to protect primarily the employees, and secondarily, to protect the investment, in future business recessions.

In view of the above facts the employees, officers, directors, and stockholders implore that the proposed tax bill, H. R. 12395, be modified to give relief to firms such as the Standard Tube Co., of which there are many thousands in the United States. These small concerns give employment to the major portion of the industrial workers of the United States.

ST. LOUIS, MO., *May 14, 1936.*

SENATOR DAVID I. WALSH,
Senate Office Building, Washington, D. C.

DEAR SIR: Permit us to express to you the decided objection of the undersigned as officers of this company to the Revenue Act of 1936 now before the Senate Finance Committee of Congress.

In our best judgment, if the provisions contained in the proposed act had been in force during the past 10 years, American Stove Co. would not have been able to continue in business since 1929, as it has, nor to pay out millions for material, supplies, and wages, as it has. Our dividends ceased in the fall of 1929, not to be resumed until a moderate profit returned in 1935, but our surplus set aside from previous earnings from years of fair profit in the form of cash in bank, Government and other sound bonds, enabled us to keep our factories open, our sales forces active, our pension system for employees in force, and our factories and machinery in repair, and our taxes on real and personal property paid promptly when due.

For the Government by such legislation to render it difficult, if not impossible, for corporate officers and directors to pursue a prudent and sound policy during years of profit is to invite disaster both to the businesses under their change and to the Nation as well.

For the Government to discard a tax system which has evolved gradually and has been clarified and interpreted by litigation and court decisions and substitute a new system entirely theoretical in its effects and application to the needs of the Government for revenue and to the taxpaying corporation for some degree of certainty in anticipating tax burdens, is not wise nor intelligent.

We, therefore, earnestly urge your action to defeat this bill with its radical and unwise changes in our taxing system.

Respectfully yours,

L. STOCKSTROM,
President, American Stove Co.
GEORGE F. FISKE,
Treasurer, American Stove Co.

ST. LOUIS, *May 13, 1936.*

Senator DAVID I. WALSH,
United States Senate, Washington, D. C.

MY DEAR SENATOR: As a practical businessman, having been in active business for more than 50 years, permit me to call to your attention the dangers which lie ahead if the new tax bill as now proposed is adopted.

The profits of young and growing business ventures are mostly not in cash, but are absorbed in the business through increased accounts receivable, merchandise, machinery, etc. For such businesses to be compelled to borrow each year sufficient to pay out their earnings in cash, or to be compelled to pay very heavy taxes on that part of their earnings not paid out in cash, would be suicidal.

Had such a law been in effect when Henry Ford started in business, it is evident that today there would be no Ford Motor Co., and what applies to Henry Ford applies equally as well to all new and growing ventures.

Large businesses with ample capital and sufficient surplus can well afford to pay out their earnings in cash, but others cannot do so, except at great hazard to their business.

The new tax bill as proposed will be a complete check on the development of a vast number of American industries. To my mind, an increase in the tax on corporate income to 20 percent, or even to 22½ percent, would be far more advisable and would do less harm to the business interests of our country than the present proposed tax.

Yours truly,

AARON WALDHEIM.

SPRINGFIELD, MASS., *May 1, 1936.*

The Honorable DAVID I. WALSH,
United States Senator, Washington, D. C.

SIR: As our representative in the United States Senate, we earnestly ask your help in our behalf. The proposal to place a prohibitive Federal tax on undistributed corporation earnings will, we fear, have a far-reaching harmful effect on the continuation of our business, which has been established here in Springfield since 1931.

Webster's New International Dictionary, second edition, copyright 1934, represents an expenditure for editorial work and plates of $1,300,000. For a publishing house this amount of money is a large investment, and was built from earnings of the business for the past 15 years. By no stretch of the imagination could a small company like ours borrow money to this amount, nor would any but the owners wait a long term of years for their recompense.

If the proposed bill becomes law and we are prohibited from accumulating savings from our business for future revisions of the Merriam-Webster dictionaries, is it not fair to conceive that the possibility for future revisions will cease, with dire results not only to this company but to American education?

Respectfully yours,

G. & C. MERRIAM CO.,
By ROBERT C. MUNROE, *President.*

BIRD & SON,
East Walpole, Mass., May 12, 1936.

Hon. DAVID I. WALSH,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR WALSH: I have given considerable thought and study to the Federal revenue bill for 1936 which has been passed by the House and is now before the Senate's Committee on Finance, of which I understand you are a member.

If the bill is enacted in substantially its present form, it is bound to result in reduction of surpluses, so that the next depression could be even worse than the present one. From reliable data, I have learned that in the 6 years from 1930 to 1935, corporations as a whole disbursed nearly $28,000,000,000 in excess of their earnings to cover operating losses and to continue dividend payments. It staggers the imagination to think what would have happened had these corporations not been prepared with adequate surpluses to carry them this far through the depression.

It is only through the ploughing back into the business of surplus earnings that we have been able to weather the storm, and it seems to me that any medium of taxation as uneconomic as the proposed bill appears to be will legislate many of our corporations out of business.

I am sure you will give this matter your serious consideration and have in mind the consequences that may result if the bill as passed by the House is enacted into law. I rely on your good judgment to do all in your power to protect, through the corporations, the pay envelopes of the working men, to say nothing of the dividends for the stockholders.

I have the honor to be, sir,

Your obedient servant,

A. H. ANDERSON, *Treasurer.*

HUDSON, MASS, *May 12, 1936.*

Hon. DAVID I. WALSH,
Washington, D. C.

DEAR SIR: It is not very often that we write our Senators and Representatives regarding bills before Congress, but we are very much interested in some of the legislation now before Congress, particularly the bill featuring taxes and undistributed earnings. We are very much opposed to this measure.

The past few years we have built up a nice foreign business, and we are very much afraid that the increasing cost of manufacturing caused by legislation will make it impossible for us to hold our foreign markets.

We have always considered it a wise policy to put a small part of earnings into a reserve or surplus to help to weather unprofitable years; we look on this in the same light as the opportunity of laboring classes depositing money in savings banks for their reserves. If we destroy these reserves we destroy one of the greatest fundamentals which has helped to build up this country.

Very truly yours,

THOMAS TAYLOR & SONS, INC.
FRANK TAYLOR.

SHARON, MASS., *May 14, 1936.*

Hon. DAVID I. WALSH,
Senate Office Building, Washington, D. C.

DEAR SIR: I would unquestionably be characterized as a very small stockholder. The few shares of stock that I own are in the so-called widows' and orphans' group. My purpose in having these stocks is to get a small amount of regular income to help pay heavy bills that accumulate each year in the form of insurance premiums, etc.

The tax bill which the House of Representatives has passed and which is presently under Senate consideration does not impress me as being sound from my standpoint. I would certainly much rather have smaller dividends steadily than larger ones in times of prosperity and none in times of depression when I need them most. This bill seems to ignore this situation, and I certainly would urge that you oppose it for the great number of your constituents that I feel sure must be in exactly the same position.

Very truly yours,

H. T. MARSHALL.

MASSACHUSETTS LEATHER MANUFACTURERS' ASSOCIATION,
Peabody, Mass., May 5, 1936.

Hon. DAVID I. WALSH,
Senate Office Building, Washington, D. C.

DEAR SIR: I am enclosing a copy of a statement which sets forth briefly the hazardous position that the members of our industry will be placed in if the proposed corporate tax law becomes effective.

Commodity processing industries with large running inventories, slow turnover, cause unrealizeable inventory profits to be mingled with real income.

Please note that profits and losses in the tanning industry are largely determined by price changes of raw stock and that inventory valuations are subject to very abrupt changes.

In behalf of this association, representing 37 tanneries, I urge you to read this enclosed statement which demonstrates the harmful effects of the proposed legislation on our members.

Very sincerely,

R. S. ROBERTS, *Secretary.*

PROPOSED CORPORATE TAX LAW A SERIOUS THREAT TO BUSINESS EXISTENCE OF MANY CORPORATIONS IN COMMODITY-PROCESSING INDUSTRIES

The following eight points summarize the reasons why many corporations may be practically forced out of business under the proposed tax law. Any period of rising prices will make it necessary for unrealized inventory profits to be either distributed or paid out in taxes. Neither of these can be done without increased borrowing, seriously impairing working capital, or business liquidation.

1. Inventories major part of assets in tanning and other industries; turnover may require 12 months or more.

Those industries which would be most seriously affected by the law are, typically, commodity processing industries. In such industries large inventories of raw material as well as material in process must always be maintained and cannot be liquidated, since they are essential to a continuation of business. Consequently, a great part of a company's assets will be represented by inventories. In the tanning industry, for example, inventories are normally more than 50 percent of total assets. This is necessary by virtue of the long period which elapses between the purchase of raw material and the sale of finished leather. In the tanning of heavy leathers, such as sole, belting, and harness, 10 months or a year may be required to effect a complete turnover. The tanning of kid leather may require a period of 12 to 15 months between the commitment for raw material and payment for finished leather. Almost 100 percent of the kidskins used by tanners, and large percentages of other raw materials must be imported. To the already long process period of tanning, which in heavy leather extends to 4 months, must be added, therefore, the months intervening between the purchase of raw material and its arrival from abroad.

2. Value of inventory subject to sharp change.

Forced to carry large inventories by the nature of its business, the tanning industry must bear an exceptional risk. Raw material price levels fluctuate sharply. The data in example 1 show the extent to which this has been the case in the past 10 years, when price changes of from 50 to 100 percent were not unusual. Such price changes directly affect the value of the industry's inventories. Huge inventories, in conjunction with sharp price fluctuations, have an extremely pertinent bearing upon the question of profits and taxes.

3. Profits and losses in tanning industry are determined to a great extent by price changes in raw materials.

Under present required methods of valuing inventories, namely, "cost" or "cost of market, whichever is lower", changes in the value of inventory must be reflected in income. On a rising market as low-priced material is sold, it must be replaced by higher-priced goods. Profits made on the sale of low-cost goods are completely absorbed in inventory, since physical inventories in the tanning industry must remain more or less constant. The value of this inventory may be higher, but this increase in value cannot be realized as cash profit short of complete or partial business liquidation. On any downswing in prices such paper profits will be eliminated.

4. True income cannot be shown by annual statements in industries with large inventories and slow turnover.

In the tanning industry real operating income cannot be shown for a 12-month period. In this industry, and in other commodity-processing industries, the annual statement of income does not measure true income any more accurately than monthly statements would. With any rising trend in prices, inventory profits which are nonrealizable and speculative must be included in net income. For example, a corporation might buy and sell during a year of rising prices an identical quantity at an identical price. It could not, therefore, have earned any real profits. Yet its income statement for the year would show profits. The extent to which this is possible is illustrated by the raw material price changes given in example I and the illustration developed in example II which indicate that corporations face impairment of working capital, if not bankruptcy, under the contemplated law.

In view of the circumstances emphasized above it is obvious that taxes upon annual income must work a hardship for many corporations unles inventory losses may be offset against inventory profits.

5. Unrealizable inventory profits are taxed under existing law. Proposed corporate tax law would aggravate this inequality and create a disastrous situation.

Unrealizable inventory profits must automatically be included in income according to present tax regulations. They are, therefore, taxable under the present law, but under the proposed law this condition would be aggravated to a degree which might force many corporations out of business. Since inventory profits are not realizable, since they are tied up in physical material which may decline in value just as quickly as it has risen, they obviously cannot be distributed as dividends. Such profits, therefore, cannot be taxed at the contemplated rates without seriously injuring the working capital of many corporations.

6. Since unrealizable profits cannot be distributed, proposed taxes could be met by many corporations only through borrowing, impairment of working capital, or liquidation of business.

On the attached chart, example III, "Price Changes and Income in Tanning Industry", the profits and losses of four typical tanning companies are contrasted with the course of raw-material prices. Obviously, changing prices appear to be the most important factor in the rate of profit or loss. During a period

of sharply advancing prices it is not unusual in the tanning industry for unrealized inventory profits to constitute the major part of total income. Reversely, a decline in the price cycle will create inventory losses more than offsetting any previous gains. This is plainly the case in the fluctuating income of the four companies shown in example III. If the proposed tax rates were applied to the profits indicated in example III, with no redress for periods of inventory losses, the question may well be asked, "How could such taxes be paid, when profits are largely nonrealizable?"

Example II on the attached is an extremely possible illustration of the difficulty which may develop for tanning companies under the proposed law. In this example, a company with capital value of $800,000 has an apparent income of $100,000. It has actually earned only $36,000, but as the result of a rising price trend, its inventory is worth $64,000 more at the end of the year than at the beginning. In other words, $36,000 is earned, realized income, and $64,000 is unrealized paper profit. Dividends and taxes can be paid only with the true income of $36,000. Under the existing law this company would pay $16,760 in taxes and would still have available cash profits for dividend distribution. Under the proposed law the maximum this company could retain would be $57,500. Neglecting capital-stock and excess-profit taxes, it would have to pay $42,500. Since actual cash earnings were but $36,000, it would be necessary to borrow from the banks, liquidate inventory, or impair working capital merely to pay the tax. Any dividends would be out of the question unless at the cost of still further borrowing or impairment of assets. Would any bank loan money on inventory profits which might disappear completely the following year with a decline in raw material prices?

7. Small corporations or corporations with limited resources most adversely affected.

An additional consideration which cannot be ignored is the effect of the proposed law upon small corporations, or corporations with limited resources. Their competitive position would be severely handicapped in contrast with corporations possessing more ample resources. This would definitely seem to favor monopolistic trends in industry.

8. Commodity-processing industries such as tanning require modification of law to avoid drastic and dangerous consequences.

The anomalous situation which must arise from the passage of the proposed law may be relieved principally by permitting profits and losses to be offset for a specified number of years. It has been emphasized above that the true income of commodity-processing industries such as tanning cannot be reflected in annual income, because of the large inventories and slow turn-over in such industries. While the existing law is unjust in this respect, the proposed law would aggravate the situation to a dangerous extent. If losses might be offset against profits, the inequitable consequences of the law might tend to be relieved. Such provision was formerly embodied in the law and is the case in England and France where periods of 6 and 3 years, respectively, are allowed.

Relief from the inequity of the proposed law may also be extended to commodity-processing industries through recognition of their need for certain accounting methods. Such methods of valuing inventories as "normal stock" or "last in, first out" tend to distinguish between true earned income and inventory profit. If the use of such methods were permitted to commodity-processing corporations, by law or tax regulation, it would be possible for them to pay corporate taxes upon actual realized income alone.

EXAMPLE I.—*Percent changes, December to December*

	Heavy native steers	Light native cows	Chicago calf	Average of 7 kid prices
1925–26	−1.3	−1.5	−16.2	−0.2
1926–27	+62.7	+68.1	+57.3	+1.2
1927–28	−9.6	−14.1	−1.5	+6.8
1928–29	−28.9	−30.3	−29.8	−14.2
1929–30	−33.8	−39.7	−19.4	−17.3
1930–31	−25.5	−13.4	−51.3	−37.1
1931–32	−31.6	−31.0	−17.8	−17.3
1932–33	+83.3	+104.1	+138.3	+79.9
1933–34	+12.1	−16.0	−25.2	−18.9
1934–35	+33.3	+34.3	+57.9	+28.2

EXAMPLE II

Company in business January 1, 1936, capital value, $800,000. Raw material market price: January 1, $1 per unit; December 31, $2.06 per unit. Average purchases, $1.53.

Company has opening inventory January 1, 1936, of 200,000 units valued at $200,000; during year 300,000 units are purchased for $459,000, and 300,000 units are sold for $495,000, leaving an obvious merchandising cash profit of $36,000.

But the "average cost or market" method of valuing inventories and arriving at profit or loss for the year must yield the following results:

200,000 units (opening inventory)	$200,000.00
300,000 units (purchases)	459,000.00
500,000 units	659,000.00
Giving an "average cost" per unit of	1.32

Since 300,000 units were sold, the closing inventory would remain at 200,000 units, valued at the average cost ($1.32 per unit) or $264,000.

Cost of sales is the difference between $659,000 and closing inventory of $264,000, or $395,000.

Since sales of 300,000 units were made for $495,000, the profit under this most conservative of allowable inventory methods would be $100,000.

It will be seen that this total consists of inventory profit of $64,000 and realized income of $36,000.

To what extent would the income shown above be taxable under the existing corporate tax law and the proposed law?

Present law (total tax, including capital-stock and excess-profit taxes): Total income, $100,000; tax $16,760; possible dividends, $19,240.

It is assumed here that there is available for taxes and dividends $36,000 of the total income of $100,000. Since $64,000 included in the total income is an inventory profit it cannot be distributed in dividends.

Proposed law (neglecting capital-stock and excess-profits taxes): Total income, $100,000; retained, maximum which can be retained, $57,500; tax, $42,500. This is more than the $36,000 which is available for taxes and dividends; $6,500 must be borrowed merely to pay the tax.

In this instance not only would no dividend distribution be possible but $6,500 would need to be borrowed or otherwise raised merely to pay the tax. If the tax were to be the same as under the present law the following situation would arise: Income, $100,000; tax,[1] $16,700; dividends, $51,480; total tax and dividends, $68,240; available for taxes and dividends, $36,000; to be borrowed or raised, $32,240.

The tax in this case is exactly the same as would be paid under the 1935 law. In order that this may be done, however, dividends of $51,480 must be paid. The total of dividends and taxes is in excess of the actual earned income by $32,240. That sum would need to be borrowed or inventory and other assets would have to be liquidated.

Mr. MALONEY obtained the floor.

Mr. KING. Mr. President, will the Senator from Connecticut yield?

Mr. MALONEY. I yield.

Mr. KING. I merely wish to ask my colleagues to remain in the Chamber until we get through with the bill. It is our desire to conclude its consideration early this evening, and I hope Senators will make their arrangements to remain until we dispose of it.

Mr. COUZENS. Mr. President, is the Senator from Connecticut going to discuss the pending amendment?

Mr. MALONEY. I am for just a moment or two.

Mr. COUZENS. Very well.

Mr. MALONEY. Mr. President, Senators have the frailty of other human beings, and they have a desire to get away from Washington. It is my wish to encourage that desire by not talking long at this time. I have risen particularly to ask the Senator from Colorado [Mr. ADAMS] if he will not permit a division of the three paragraphs of his amendment, so they may be voted upon separately?

I have a very high regard for the opinion of the Senator from Massachusetts [Mr. WALSH], who has just spoken so ably. After his long study, he has stated the paradoxical position in which he and other members of the committee find themselves. None of us has had a chance to study the triplicate proposal of the Senator from Colorado. It is my impression, as I look at it very hurriedly, that the third paragraph of his proposal is too much of a catch-all to be passed upon quickly, and that it would permit the payment of a huge part of the indebtedness of corporations which did not require such assistance.

It seems to me the first paragraph of the amendment might properly and wisely prevail. The Senator from Washington [Mr. BONE] said in a colloquy with the Senator from Colorado [Mr. ADAMS] that during the wartime many large structures were built and much machinery purchased to avoid the payment of taxes. Conditions are very different now from what they were during the war. Corporations then secured business on a 10-percent-plus-profit basis from the Government.

[1] Under the schedule for adjusted net incomes of more than $10,000, in order to pay a tax of $16,760 on the total adjusted net income of $100,000, it would be necessary to pay dividends of $51,480 and retain $31,760.

But now, particularly in my section of the country, we see many large factory buildings being torn down to avoid the payment of municipal taxes. It seems to me if we do not permit corporations to have the benefit provided for in the first paragraph of the amendment submitted by the Senator from Colorado, we will be actually putting a tax upon industrial progress. We can properly and wisely adopt the first paragraph, which would encourage building and afford men work, and return to stricken municipalities some small part of the taxes which they have lost. If we can return that tax, and at the same time secure employment for some portion of the people of those communities who are now denied work, by the adoption of this amendment we can lighten the local tax burden and perhaps withdraw the necessity of so much relief from the Federal Government.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Colorado to the amendment of the committee.

Mr. COUZENS. Mr. President, the adoption of the amendment of the Senator from Colorado would make it impossible, as we are informed by the experts from the Treasury Department, to obtain any revenue from the bill at all. It would merely provide loopholes, and I hope for that reason the amendment will be rejected.

Mr. ADAMS. Mr. President, the Senator from Connecticut [Mr. MALONEY] has asked to have the three paragraphs of the amendment voted on separately. I submit that request.

The VICE PRESIDENT. The Senator from Colorado asks that the three paragraphs of the amendment be voted on separately. Is there objection? The Chair hears none. The question is on agreeing to the first branch of the amendment of the Senator from Colorado to the committee amendment.

The amendment to the amendment was rejected.

The VICE PRESIDENT. The question is on agreeing to the second branch of the amendment of the Senator from Colorado to the amendment of the committee.

The amendment to the amendment was rejected.

The VICE PRESIDENT. The question is on agreeing to the third branch of the amendment of the Senator from Colorado to the amendment of the committee.

The amendment to the amendment was rejected.

The VICE PRESIDENT. The question is on agreeing to the committee amendment.

Mr. GEORGE. Mr. President, the Senator from Massachusetts has several amendments which he desires to offer.

Mr. WALSH. Mr. President, representing the Finance Committee I offer an amendment to the committee amendment. There are several other amendments, but this is the only one which needs to be applied to a committee amendment. It would merely amplify and make more accurate the definition of mutual investment companies which is found in the committee amendment now pending.

The VICE PRESIDENT. The Senator from Massachusetts offers an amendment to the committee amendment which will be stated.

The CHIEF CLERK. In the committee amendment on page 30, after line 2, it is proposed to insert a new subsection, to read as follows:

(3) Dividends paid: In the case of mutual investment companies the credit provided in section 27.

On page 53, line 12, insert at the end thereof the following:

The credit allowed by this subsection shall not be allowed to mutual investment companies. (For definition of mutual investment company, see section 1001.)

On page 292, after line 15, insert a new paragraph, to read as follows:

(15) The term "mutual investment company" means any corporation (whether created by agreement, declaration of trust, statute, or otherwise), other than a common trust fund as defined in section 169, organized for the purpose and engaged exclusively in holding, investing, or reinvesting in stocks or securities, 90 percent of whose gross income is derived from dividends, interest, or gains from sales or other disposition of stocks or securities, and whose members or stockholders are, upon reasonable notice and under reasonable conditions, entitled to withdraw their respective interests in the company's properties, or the cash equivalent thereof: *Provided*, That at no time during the taxable year subsequent to a date 30 days after the date of the enactment of this act (1) more than 10 percent of the gross assets of the company taken at market value was invested in stock or securities or both of a single corporation or of any group of corporations (and for this purpose "group of corporations" means one or more chains of corporations connected through stock ownership with a common parent corporation if at least 25 percent of the voting stock of each corporation (except the common parent corporation) is owned by one or more of the other corporations, and the common parent corporation owns at least 25 percent of the voting stock of at least one of the other corporations), and (2) at no time during the taxable year the company owned, directly or indirectly, more than 5 percent of the outstanding stock or securities or both of any corporation, and (3) at no time during the taxable year more than 10 percent of the company's outstanding stock or securities or both (except coupon bonds, the amount of which shall not at any time during the taxable year exceed 25 percent of the total assets of the company taken at market value) was owned directly or indirectly by or for any one individual (and for this purpose stock or security owned, directly or indirectly, by a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries, and an individual shall be considered as owning, to the exclusion of any other individual, the stock or securities owned, directly or indirectly, by his family, the family of an individual for this purpose including only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants), and (4) the company at all times during the taxable year maintained records showing the names and addresses of all actual owners of its outstanding stock and securities, in accordance with regulations prescribed by the Commissioner and approved by the Secretary.

Mr. WALSH. Mr. President, this one amendment illustrates the tremendous difficulty the committee has had in drafting the bill. It took so much of the time of the experts that we were unable to present the amendment when the bill was originally presented. It expresses the united views of the committee on this very important question, and sets up strict limitations and restrictions upon mutual investment companies before they may take advantage of the benefits prescribed. The amendment is acceptable to the Senator from Georgia, I know.

Mr. GEORGE. Mr. President, may I ask the Senator if this is the amendment which was passed on by the subcommittee?

Mr. WALSH. It is offered at this time because it relates to the subject matter of the Senator's amendment.

Mr. GEORGE. It was considered and passed upon by the subcommittee?

Mr. WALSH. It was, and unanimously agreed to.

The PRESIDING OFFICER (Mr. ROBINSON in the chair). The question is on agreeing to the amendment offered by the Senator from Massachusetts to the amendment of the committee.

Mr. COUZENS. Mr. President, while it is true that this amendment was submitted to a subcommittee for consideration, I do not think the full committee had an opportunity of considering the subcommittee's recommendations. I merely wish to make this observation because, while I am not going to oppose the amendment, I think it is full of many possible loopholes; and I hope it will be watched very carefully to see that no person not entitled to the exemption takes advantage of it.

Mr. GEORGE. Mr. President, I ask unanimous consent that the vote by which the matter in lines 1 and 2, on page 30, was agreed to be reconsidered, and that the same action be taken with respect to other sections affected by this amendment, if other committee amendments have heretofore been agreed to, so that the amendment may be in order.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Georgia? The Chair hears none, and the motion to reconsider is agreed to.

The question is on agreeing to the amendment offered by the Senator from Massachusetts [Mr. WALSH] to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. BULKLEY. Mr. President, I desire to offer an amendment to the section as amended.

The PRESIDING OFFICER. The Senator from Ohio offers an amendment to the amendment of the committee, which will be stated.

The CHIEF CLERK. On page 31, line 21, it is proposed to strike out the words "bank or trust company", and insert "bank, or a banking institution engaged only in a business similar to that transacted by Morris Plan banks, or a trust company", followed by a comma.

Mr. GEORGE. If it is agreeable to the Senator from Ohio, and with the consent of the acting chairman of the committee, the Senator from Utah [Mr. KING], I shall be glad to accept the amendment for conference consideration.

Mr. KING. It may go to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Ohio [Mr. BULKLEY] to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. GEORGE. The question now is on the amendment on pages 30 and 31, as amended.

The amendment, as amended, was agreed to.

Mr. GEORGE. Mr. President, there is an amendment on page 53, subsection (c), which was passed over. The Senator from Michigan [Mr. COUZENS] desires to offer an amendment to the committee amendment at that point.

Mr. COUZENS. Mr. President, I send to the desk an amendment to the committee amendment on page 53, beginning at line 13. It provides for rewriting section (c), and dividing it into two sections.

The PRESIDING OFFICER. The amendment offered by the Senator from Michigan to the amendment of the committee will be stated.

The CHIEF CLERK. On page 53, it is proposed to strike out lines 13 to 23, both inclusive, and in lieu thereof insert:

(c) CONTRACTS RESTRICTING PAYMENT OF DIVIDENDS.—

(1) PROHIBITION ON PAYMENT OF DIVIDENDS.—An amount equal to the excess of the adjusted net income over the aggregate of the amounts which can be distributed within the taxable year as dividends without violating a provision of a written contract executed by the corporation prior to May 1, 1936, which provision expressly deals with the payment of dividends. If a corporation would be entitled to a credit under this paragraph because of a contract provision and also to one or more credits because of other contract provisions, only the largest of such credits shall be allowed, and for such purpose if two or more credits are equal in amount only one shall be taken into account.

(2) DISPOSITION OF PROFITS OF TAXABLE YEAR.—An amount equal to the portion of the earnings and profits of the taxable year which is required (by a provision of a written contract executed by the corporation prior to May 1, 1936, which provision expressly deals with the disposition of earnings and profits of the taxable year) to be paid within the taxable year in discharge of a debt, or to be irrevocably set aside within the taxable year for the discharge of a debt; to the extent that such amount has been so paid or set aside. For the purposes of this paragraph, a requirement to pay or set aside an amount equal to a percentage of earnings and profits shall be considered a requirement to pay or set aside such percentage of earnings and profits. As used in this paragraph, the word "debt" does not include a debt incurred after April 30, 1936.

(3) DOUBLE CREDIT NOT ALLOWED.—If both paragraph (1) and paragraph (2) apply, the one of such paragraphs which allows the greater credit shall be applied; and, if the credit allowable under each paragraph is the same, only one of such paragraphs shall be applied.

Mr. COUZENS. Mr. President, this amendment was generally discussed in the committee; and in view of the language in the bill there were left out, in the judgment of the committee, other forms of debt than those dealing with the payment of dividends. The last words on line 22, page 53, seem to exclude obligations of the corporation to pay debts or withhold earnings for specific purposes under contract.

In this amendment we extended the period from March 3, 1936, to May 1, 1936. I have consulted those on the committee, and, so far as the committee is concerned, there seems to be no reason for not adopting the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Michigan to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment passed over.

The CHIEF CLERK. The next amendment passed over is on page 270, where it is proposed to insert, after line 10, the following:

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 801. DEDUCTION FOR ESTATE TAX INSURANCE.

(a) Section 401 (c) of the Revenue Act of 1932, as amended, is amended to read as follows:

"(c) For the purposes of this section the value of the net estate shall be determined as provided in title III of the Revenue Act of 1926, as amended, except that (1), in lieu of the exemption of $100,000 provided in section 303 (a) (4) of such act, the exemption shall be $40,000; and (2) there shall be deducted from the value of the net estate as thus determined the proceeds (to the extent included in gross estate) of life-insurance policies payable to (and received by) the Treasurer of the United States in trust for the payment of estate, inheritance, succession, legacy, or other death duties levied by the United States against or with respect to the estate of the decedent, exclusive of any excess over the amount of such taxes which excess shall be accounted for (without interest) to the executor or administrator of the decedent for the benefit of the persons entitled thereto: *Provided, however,* That the proceeds of policies on which the premium-paying period provided in the policy is less than 10 years, or on which the premiums are not substantially equal in amount for each of the first 10 years of the life of the policy, or on which more than 1 year's premium has been paid in advance, shall not be deductible: *Provided further,* That the amount deductible as aforesaid shall not include premiums paid in advance, and shall not exceed $1,000,000."

(b) The amendment made by subsection (a) shall be effective only with respect to transfers of estates of decedents dying after the date of the enactment of this act.

Mr. COUZENS. Mr. President, the amendment on page 270 ends on line 16, page 271. There has been a considerable campaign to permit small industries to insure their principals for the purpose of paying their estate tax without being compelled to disintegrate the corporation.

The committee discussed the matter at considerable length, and agreed upon the language, I think, that is in the bill; but in order to have no misunderstanding I propose an amendment on line 13, cutting out "$1,000,000" and inserting "$250,000."

This means that a premium of $250,000, which is substantially the amount of a premium on a million dollars, would be deducted from the principal of the estate. I believe that is generally agreed upon by the committee and others who favor some relief from the estate tax on small industries.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. In the committee amendment, on page 271, line 13, it is proposed to strike out "$1,000,000" and insert in lieu thereof "$250,000."

Mr. LONERGAN. Mr. President, as the author of the amendment appearing in the bill, I accept the amendment presented by the Senator from Michigan.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Michigan [Mr. COUZENS] to the committee amendment.

The amendment to the amendment was agreed to.

Mr. STEIWER. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEIWER. Is the amendment which I sent to the desk a few minutes ago now in order?

The PRESIDING OFFICER. The question now is on agreeing to the committee amendment as amended.

The amendment as amended was agreed to.

Mr. GEORGE. Mr. President, let the amendment presented by the Senator from Oregon be stated.

Mr. KING. Mr. President, there are a number of other committee amendments. Will not the Senator from Oregon withhold his amendment until they can be acted on?

Mr. GEORGE. Will not the Senator permit the amendment of the Senator from Oregon to be stated so that it may be seen whether it is an amendment to the committee amendment or an amendment to the original text?

The PRESIDING OFFICER. The Chair inquires of the Senator from Oregon whether the amendment he presents is an amendment to a committee amendment or to the original language.

Mr. STEIWER. I do not think it is an amendment to a committee amendment.

Mr. GEORGE. Then I make the same suggestion as that made by the Senator from Utah. May I inquire of the clerk whether any others of the committee amendments in the bill have been passed over?

The PRESIDING OFFICER. The Chair is informed that there are not any others which have been passed over.

Mr. BARKLEY. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BARKLEY. I have a number of committee amendments to offer which are largely to administrative features of the bill, which have been worked out since the bill was reported to the Senate from the committee. One of them involves striking out the language of an amendment which probably has already been agreed to. In that case I shall have to ask unanimous consent that the vote by which the amendment was agreed to be reconsidered. But I do not wish now to complicate the situation by offering the amendments prior to the completion of the amendments which the Senator from Massachusetts desires to offer, which may involve the same procedure.

Mr. WALSH. Mr. President, if the Senator from Georgia has finished with the committee amendments he had to offer, I will offer some amendments on behalf of the committee, in addition.

Mr. GEORGE. The Senator from Massachusetts and the Senator from Kentucky, as chairman of subcommittees, were authorized to submit certain amendments on behalf of the committee.

Mr. WALSH. Mr. President, on behalf of the committee I desire to offer several amendments, which I send to the desk.

The PRESIDING OFFICER. The clerk will state the first amendment presented by the Senator from Massachusetts on behalf of the committee.

The CHIEF CLERK. On page 67, line 6, after the word "title", it is proposed to insert "and such other information for the purpose of carrying out the provisions of this title as the Commissioner with the approval of the Secretary may by regulations prescribe."

Mr. WALSH. Mr. President, the amendment merely gives the Commissioner of Internal Revenue authority to make regulations asking for further information necessary to carry out the provisions of this title.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment offered by the Senator from Massachusetts.

The CHIEF CLERK. On page 68, line 10, after "title", it is proposed to insert "and such other information for the purpose of carrying out the provisions of this title as the Commissioner with the approval of the Secretary may by regulations prescribe."

Mr. WALSH. Mr. President, this amendment is similar to the one just agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment presented by the Senator from Massachusetts.

The CHIEF CLERK. On page 150, line 5, after "title", it is proposed to insert "and such other information for the purpose of carrying out the provisions of this title as the Commissioner with the approval of the Secretary may by regulations prescribe."

Mr. WALSH. This is an amendment similar to those which have just been acted on.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment offered by the Senator from Massachusetts.

The CHIEF CLERK. On page 162, lines 23 and 24, it is proposed to strike out the words "subject to the tax imposed by this title."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment offered by the Senator from Massachusetts.

The CHIEF CLERK. On page 174, line 13, after "title", it is proposed to insert "and such other information for the purpose of carrying out the provisions of this title as the Commissioner with the approval of the Secretary may by regulations prescribe."

The PRESIDING OFFICER. The question is on agreeing ot the amendment.

The amendment was agreed to.

Mr. WALSH. Mr. President, I send to the desk another amendment which I offer for the committee.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. On page 272, after line 12, it is proposed to insert the following new section:

SEC. 804. SUITS TO ENFORCE LIENS FOR TAXES.

(a) Section 3207 (a) of the Revised Statutes, as amended, is amended to read as follows:

"SEC. 3207. (a) In any case where there has been a refusal or neglect to pay any tax, and it has become necessary to seize and sell property and rights to property, whether real or personal, to satisfy the same, whether distraint proceedings have been commenced or not, the Attorney General at the request of the Commissioner of Internal Revenue may direct a bill in chancery to be filed, in a district court of the United States, to enforce the lien of the United States for tax upon any property and rights to property, whether real or personal, or to subject any such property and rights to property owned by the delinquent, or in which he has any right, title, or interest, to the payment of such tax. All persons having liens upon or claiming any interest in the property or rights to property sought to be subject as aforesaid shall be made parties to such proceedings and be brought into court as provided in other suits in chancery therein. And the said court shall, at the term next after the parties have been duly notified of the proceedings, unless otherwise ordered by the court, proceed to adjudicate all matters involved therein and finally determine the merits of all claims to and liens upon the property and rights to property in question, and, in all cases where a claim or interest of the United States therein is established, may decree a sale of such property and rights to property, by the proper officer of the court, and a distribution of the proceeds of such sale according to the findings of the court in respect to the interests of the parties and of the United States. In any such proceeding, at the instance of the United States, the court may appoint a receiver to enforce the lien, or, upon certification by the Commissioner of Internal Revenue during the pendency of such proceedings that it is in the public interest, may appoint a receiver with all the powers of a receiver in equity."

(b) No suit brought by the United States to enforce any lien for tax on any property, or rights to property, whether real or personal, which is pending in any court of the United States on the date of the enactment of this act, shall abate, but any such suit shall be continued in accordance with the provisions of subsection (a) of this section.

Mr. WALSH. Mr. President, this amendment would permit the collector of internal revenue to apply to the United States courts, to file a petition in equity to enforce a lien for taxes where he has reason to believe the taxpayer will not be able to meet his obligations, and where public interest will be prejudiced by resorting to the provisions in the present law, for distraint on the taxpayer's assets. In other words, it is an amendment more favorable to the taxpayer than are the provisions of the present law.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Massachusetts [Mr. WALSH].

The amendment was agreed to.

Mr. WALSH. I offer another amendment.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 272, after the amendment just agreed to, it is proposed to insert the following new section:

SEC. 805. INTEREST ON ERRONEOUS REFUNDS.

(a) Section 610 of the Revenue Act of 1928, as amended, is amended by adding at the end thereof a new subsection to read as follows:

"(d) Erroneous refunds recoverable by suit under this section shall bear interest at the rate of 6 percent per annum from the date of the payment of the refund."

SEC. 806. INTEREST ON OVERPAYMENTS.

Section 614 (a) (2) of the Revenue Act of 1928 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", whether or not such refund check is

accepted by the taxpayer after tender of such check to the taxpayer. The acceptance of such check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon."

Mr. WALSH. The amendment incorporating section 805 is to make it clear that interest on erroneous refunds runs from the date of payment of such refunds and not from the date when application is made for the refunds.

The purpose of section 806, Interest on Overpayment, is to save unnecessary interest charges to the Government by enabling the Commissioner of Internal Revenue to pay to a claimant such portion of his claim as the Commissioner may find to be meritorious without prejudice to the rights of the claimant to sue for the recovery of the balance.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts [Mr. WALSH].

The amendment was agreed to.

Mr. WALSH. I offer another amendment.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 272, after line 12, it is proposed to insert the following new section:

SEC. 807. ESTATE TAXES—REVOCABLE TRANSFERS.

(a) Section 302 (d) (1) of the Revenue Act of 1926, as amended, is amended to read as follows:

"(d) (1) To the extent of any interest therein of which the decedent has at any time made a transfer (except in case of a bona-fide sale for an adequate and full consideration in money or money's worth), by trust or otherwise, where the enjoyment thereof was subject at the date of his death to any change through the exercise of a power (whether created at the time of such transfer or thereafter arising from any source, and whether exercisable in an individual or representative capacity) by the decedent alone or by the decedent or in conjunction with any other person, to alter, amend, revoke, or terminate, or where any such power is relinquished in contemplation of decedent's death."

(b) The amendment by subsection (a) of this section shall not apply to decedents dying prior to the date of the enactment of this act.

Mr. WALSH. Mr. President, the purpose of this amendment is to clarify the revocable-trust provisions of the present law, which threaten a large loss of revenue to the Government. It is estimated that this amendment would save the Government as much as $20,000,000 a year.

Mr. TYDINGS. Does the amendment apply ex post facto?

Mr. WALSH. No.

Mr. TYDINGS. Just from now on?

Mr. WALSH. From now on.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Massachusetts.

The amendment was agreed to.

Mr. WALSH. Mr. President, I present another amendment.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 272, after line 12, it is proposed to insert the following new section:

SEC. 808. REGISTRATION UNDER THE NARCOTIC LAWS.

(a) The fourth paragraph of section 1 of the act entitled "An act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes", approved December 17, 1914, as amended (38 Stat. 785), is amended to read as follows:

"Importers, manufacturers, producers, or compounders, lawfully entitled to import, manufacture, produce, or compound any of the aforesaid drugs, $24 per annum; wholesale dealers, lawfully entitled to sell and deal in any of the aforesaid drugs, $12 per annum; retail dealers, lawfully entitled to sell and deal in any of the aforesaid drugs, $3 per annum; physicians, dentists, veterinary surgeons, and other practitioners, lawfully entitled to distribute, dispense, give away, or administer any of the aforesaid drugs to patients upon whom they in the course of their professional practice are in attendance, $1 per annum or fraction thereof during which they engage in any of such activities; persons not registered as an importer, manufacturer, producer, or compounder and lawfully entitled to obtain and use in a laboratory any of the aforesaid drugs for the purpose of research, instruction, or analysis shall pay $1 per annum, but such persons shall keep such special records relating to receipt, disposal, and stocks on hand of the aforesaid drugs as the Commissioner of Narcotics, with the approval of the Secretary of the Treasury, may by regulation require. Such special records shall be open at all times to the inspection of any duly authorized officer, employee, or agent of the Treasury Department."

(b) The second proviso of section 6 of the said act of December 17, 1914, as amended, is amended by inserting after the words "mentioned in this section" the following: "lawfully entitled to manufacture, produce, compound, or vend such preparations and remedies,".

(c) This section shall take effect on July 1, 1936.

Mr. WALSH. Mr. President, since the passage of the Harrison narcotic law approximately 32 States have passed narcotic laws. This amendment requires compliance with the State laws as a condition of Federal regulation under the Harrison narcotic law.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. WALSH. Mr. President, I present another amendment.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 272, after line 12, it is proposed to insert the following new section:

SEC. 809. RECONSIDERATION OF REFUND CLAIMS.

Section 3226, of the Revised Statutes, as amended, is amended by adding at the end thereof the following new sentence: "Any consideration, reconsideration, or any action by the Commissioner of Internal Revenue with respect to such claim following the mailing of a notice by registered mail of disallowance shall not operate to extend the period within which suit may be begun."

(b) The amendment made by subsection (a) shall not operate (1) to bar a suit or proceeding which was not barred on the date of the enactment of this act, or (2) to prevent the suspension of the statute of limitations for filing suit under section 608 (b) (2) as amended, of the Revenue Act of 1928.

Mr. WALSH. Mr. President, the purpose of this amendment is to enable the Commissioner of Internal Revenue, after once rejecting a claim for refund, to reconsider such claim on the merits without increasing the statutory period for bringing suit.

(b) Makes it clear that no rights already accrued shall be shut off.

608 (b) (2) gives the Commissioner power to enter into an agreement to prevent statute of limitations operating pending a test suit.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Massachusetts.

The amendment was agreed to.

Mr. WALSH. I present another amendment.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 272, after line 12, it is proposed to insert the following new section:

SEC. 810. INTEREST ON JUDGMENTS.

Section 177 (b) of the Judicial Code, as amended, is amended to read as follows:

"(b) In any judgment of any court rendered (whether against the United States, a collector or deputy collector of internal revenue, a former collector or deputy collector, or the personal representative in case of death) for any overpayment in respect of any internal-revenue tax, interest shall be allowed at the rate of 6 percent per annum upon the amount of the overpayment, from the date of the payment or collection thereof to a date preceding the date of the refund check by not more than 30 days, such date to be determined by the Commissioner of Internal Revenue. The Commissioner is hereby authorized to tender by check payment of any such judgment, with interest as herein provided, at any time after such judgment becomes final, whether or not a claim for such payment has been duly filed, and such tender shall stop the running of interest, whether or not such refund check is accepted by the judgment creditor."

Mr. WALSH. Mr. President, the practice has grown up in cases where a refund is granted of allowing the money to remain in the Treasury and obtain the 6 percent that is allowed by law. It is a very fine investment and is much better than a savings bank or a trust company account.

This amendment stops the payment of interest and gives the Commissioner the right to pay the refund at once and not wait for the taxpayer who is entitled to the refund to allow it to remain in the Treasury and get 6 percent. The amendment would provide a saving to the Government.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. WALSH. Mr. President, one further amendment. I call the attention of the Senator from Michigan [Mr. COUZENS] to this amendment.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 82, after line 19, it is proposed to insert:

(18) Religious or apostolic associations or corporations having a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro-rata shares, whether distributed or not, of the net income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.

Mr. WALSH. Mr. President, under existing law religious, educational, and charitable corporations are exempt from taxation under the income-tax title.

This amendment adds a new paragraph to section 101 of the revenue act, which exempts certain corporations from taxation under the income-tax title.

It has been brought to the attention of the committee that certain religious and apostolic associations and corporations, such as the House of David and the Shakers, have been taxed as corporations, and that since their rules prevent their members from being holders of property in an individual capacity the corporations would be subject to the undistributed-profits tax. These organizations have a small agricultural or other business. The effect of the proposed amendment is to exempt these corporations from the normal corporation tax and the undistributed-profits tax, if their members take up their shares of the corporations' income on their own individual returns. It is believed that this provision will give them relief, and their members will be subject to a fair tax.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Massachusetts.

The amendment was agreed to.

Mr. WALSH. I have two amendments which I will read. On page 76, line 6, after the word "Title", I move to insert the words "and title I (a)."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WALSH. I have one more amendment. On page 152, line 10, after the word "individual" and before the comma, insert "except that in the case of the resident of a contiguous country the rate shall be 5 percent."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WALSH. Those are all the committee amendments.

Mr. BARKLEY. Mr. President, I offer an amendment, which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 260, line 20, it is proposed to strike out the period following the figures "1936" and insert in lieu thereof a semicolon and the following:

Provided, however, That in the case of articles other than direct-consumption sugar processed wholly or partly from sugar with respect to which a processing tax was paid, which are exported or delivered for charitable distribution or use, the exportation or the delivery for charitable distribution or use may take place at any time prior to September 1, 1936.

Mr. BARKLEY. Mr. President, the bill as reported and as it passed the House provided for the refund of certain floor-stock taxes as of January 6, 1936. This amendment simply allows certain concerns that had on hand a large amount of canned goods in which sugar had been used to dispose of their goods at any time prior to September 1.

Mr. COPELAND. Mr. President, may I ask the Senator a question?

Mr. BARKLEY. I yield to the Senator.

Mr. COPELAND. I have been appealed to by a good many manufacturers from my State who urge an amendment with the option of accepting refund of floor tax paid in 1933 as full settlement of all tax adjustments made, and so forth. I understand that the Senator from Kentucky has had charge of this particular matter. Was he able to find any relief for these persons?

Mr. BARKLEY. In reply to the Senator I will say that the subcommittee on refunds, of which I happened to be the chairman, considered that subject very carefully and very earnestly, not only among its members but with the Treasury Department, and it was found impossible to bring about such an amendment, because many of those who paid the floor tax when it was levied in 1933 passed it on to the consumer. So to provide an amendment of that sort would simply allow them to collect the amount back from the Government, regardless of how much of it they had passed on, and even though they had passed all of it on. We considered the question of providing an option where concerns are still in business, and were going concerns, and were in business in August or October 1933, and were in business on January 5, 1936, but it was found utterly impossible to work out an amendment that would do that without leaving a loophole through which many concerns would be refunded the amount of money which they paid, although they had passed it on to the consumer.

After giving that matter very earnest consideration, the committee did not feel justified in providing such an amendment. I will say that the full committee approved the action of the subcommittee on that subject.

Mr. COPELAND. Mr. President, I ask that a telegram which I have received in connection with this subject be inserted in the RECORD as typical of many I have received.

The PRESIDING OFFICER. Without objection, it is so ordered.

The telegram is as follows:

UTICA, N. Y., *June 5, 1936.*

Senator ROYAL S. COPELAND,
Senate Office Building:

Urge amendment with option of accepting refund of floor tax paid in 1933 as full settlement of all tax-adjustment claim based on inventory of January 6, 1936, avoiding heavy accounting expenses and effecting equitable settlement to all who cooperated in 1933. In view of the large amount paid by New York State manufacturers, hope you can assist us to obtain this simplified, inexpensive method of settlement.

UTICA DUXBAK CORPORATION.

Mr. COPELAND. I assume from what the Senator said that the problem was given study and an effort made to have an equitable disposition of it.

Mr. BARKLEY. That is true.

Mr. COPELAND. But it was found impossible to formulate language that would be fair?

Mr. BARKLEY. Absolutely. That was the position of the committee, and that position was taken after very careful consideration.

Mr. LA FOLLETTE. Mr. President, the fact is that there is a difference in competitive situations that cannot be remedied by law.

Mr. BARKLEY. That is correct.

Mr. COPELAND. I dare say that businessmen are so accustomed to paying taxes that they will swallow another one and take it as pleasantly as possible.

Mr. COUZENS. Mr. President, I desire to say that as a member of the committee I have very great sympathy for the position taken by the Senator from New York. The question was discussed at considerable length in the committee. Just as soon, however, as the question was raised there was a definite and vigorous opposition on the part of the Treasury. I do not agree with their opposition, but I recognize that if they start out to defeat a proposal it is almost impossible to overcome them. I do not charge the subcommittee, of which

the Senator from Kentucky [Mr. BARKLEY] is the chairman, with not making an effort; but I want to say now, as a matter of record, that unless there is some way found to protect the hundreds of thousands of small retail merchants who are unable to compute the amount of processing tax that was in their goods on January 6, 1936, they are just out of the picture, and it is just too bad. When they paid the tax in August 1933 they knew exactly what they paid on. The Government accepted the tax. And they knew the amount of taxable goods that were on hand and subject to the processing tax.

When suddenly the Court decided that the tax was unconstitutional, there were hundreds of thousands of retailers who had no opportunity immediately to determine the amount of processing tax on the goods they had on hand. Even if they could have done so, it would have taken hundreds of thousands of Government employees to go around to all the retailers and try to verify their claims. I regret that, due to the attitude of the Treasury Department, it was necessary to make the decision which was made.

Mr. BARKLEY. Mr. President, it is not quite accurate to say the Treasury was bitterly opposed to the suggestion. In the first place, I think the committee had to take one of two alternatives. We had to pay back to the taxpayer of 1933 the entire amount which he paid in the way of a processing tax, or we had to take January 6, at which time the Supreme Court rendered its decision, and subsequent to which time merchants were supposed to have reduced the price of their floor stocks by reason of the nullification of the tax.

There were many concerns in business on January 6 that were not in business in the fall of 1933. If we should provide that all the taxes paid in 1933 should be the standard by which a refund should be made, then, no matter how much any merchant who was not in business at that time but who was in business subsequently and was in business on January 6 was required to reduce his price, because of the Supreme Court decision, he could not get a refund. If we make the payment of taxes in 1933 the standard of refund, as I said, although the merchant passed the entire tax onto the public, he would get back what he paid to the Government. The difficulty is, and has been, to work out a provision that would give an option between the two dates without doing somebody a very grave injustice.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. LA FOLLETTE. My impression of the attitude of the Treasury representatives was not that they were in bitter opposition to the proposal, but that they presented the difficulties to the committee and presented the inequities which were bound to result whichever course the committee took. It was only after the committee had been over it that we finally came to the conclusion there would be less inequities and less injustice if we adopted the proposal recommended than if we went back to the other date.

To show the situation let me point out that in one memorandum which the committee got from a trade association, the secretary of the association, in order to present the conflicting conditions among his members, in one part of his memorandum suggested one alternative and in the other part of the same memorandum suggested another alternative. I assume that was done so he could send to the particular member whichever part of it he thought would suit him along with a statement showing he had advocated what would be to his best interests.

Mr. GLASS. Mr. President, did he take his position by following the example of some Members of the Senate? [Laughter.]

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. COPELAND. May I ask the Senator from Kentucky if I understood him correctly? I understood that every case would have to be considered on its merits and in consequence the Treasury objected because it would be such a tremendous undertaking. Is that correct?

Mr. BARKLEY. Let me say to the Senator from New York the Treasury did not object. It was not a matter in which the Treasury was interested, except as a matter of administration. The difficulties of administering such a provision were so insurmountable that the committee thought the Treasury's mere representation of the situation was worthy of consideration, and the committee gave it consideration.

Mr. COPELAND. It was insurmountable because of lack of clerical help?

Mr. BARKLEY. Oh, no; not that; but the ability to figure out, in the first place, any alternative between the two dates that would be equitable, and also the injustice of allowing everybody who paid the tax in 1933 to collect it back, although every cent of it was passed on to the public.

Mr. COPELAND. If I have a dispute with the Senator as to whether I owe him money or he owes me money, there are legal means of settling the matter. Cannot the equities be discovered? If each individual case is determined on its merits, will it not be possible to figure out how much the individual merchant should receive?

Mr. BARKLEY. It would be very difficult and almost impossible, because certainly the Senator from New York would not advocate a proposal which would allow to every man who paid a tax a refund of the entire tax, although he passed it on to the public or although he passed only a part of it on to the public. That would involve a determination of how much he actually passed on to the public. It would involve a minute system of bookkeeping, and representations on the part of the merchant or the dealer as to what portion of the tax he passed on and what portion he did not pass on. It would involve endless testimony as to how much he kept back and did not pass on. I do not see how it could be ascertained.

Mr. COPELAND. I have in my hand an Associated Press article telling about the Treasury taking on 800 white-collar workers, and as the result of it they have turned back $794,000 in collections. Would it not be possible to have some of these W. P. A. workers engage in some legitimate enterprise, such as working out justice to citizens who are being imposed upon? Then there would not be the charge of boondoggling.

Mr. BARKLEY. I am sure the Senator is not only attempting to be but succeeding in being facetious. I do not think that would contribute to any better administration of the law than is now possible in the Treasury Department.

Mr. COPELAND. I may seem facetious to the Senator from Kentucky, but every citizen who is affected by this decision is not going to feel that the thing is a joke. He is going to say, "There is nothing facetious about it so far as I am concerned."

Mr. COUZENS. Mr. President, will the Senator from Kentucky yield?

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Michigan?

Mr. BARKLEY. I yield.

Mr. COUZENS. I want to have the Senator from Wisconsin [Mr. LA FOLLETTE] absolve me from being influenced by any Washington lobbyist who may have made contradictory suggestions to different parts of his membership.

Mr. LA FOLLETTE. O Mr. President, the Senator from Michigan certainly knows that I have no such idea in mind. I simply cited that as an instance to show that in the same group of competitors were some who found themselves in one situation where they would be advantaged by one decision of the courts, and another group in the same line of enterprise who found that they would be advantaged by an alternative decision. I simply cited that instance to fortify the statement I made that this was a question of particular competitive conditions which the Congress could not decide without creating some inequities in the situation.

Mr. FLETCHER. Mr. President, may I ask the Senator a question?

Mr. BARKLEY. Certainly.

Mr. FLETCHER. I was called out of the Chamber for the moment. May I ask what amendment is pending?

Mr. BARKLEY. It is the amendment on page 260, which allows the holders of certain floor stocks until the first of next September in which to dispose of them.

Mr. FLETCHER. I have received the following telegram relating to that amendment:

TAMPA, FLA., *June 5, 1936.*

Senator DUNCAN U. FLETCHER,
Senate Office Building, Washington, D. C.:

Members of this association, representing approximately 90 percent of the canned citrus production in Florida, earnestly request your support in securing a change in present bill—H. R. 12365, section 602, page 262, line 22—which now reads January 6, to read September 1, 1936. If this change is not accomplished, it will mean considerable loss to our industry by reason of goods already packed with processing tax thereon that will move between the date of January 6 and September 1, 1936.

FLORIDA GRAPEFRUIT CANNERS ASSOCIATION,
Tampa, Fla.

Mr. BARKLEY. The amendment takes care of that.

Mr. COUZENS. Mr. President, I ask the indulgence of the Senator from Kentucky, because both the Senator from New York and I raised the question of the small retailer.

In connection with that matter, I desire to point out that the committee did something for the small retailer, because it would appear on page 263 that we provided that where the small merchant makes an affidavit of the amount of tax he has been unable to pass on, and which he has really paid, the Commissioner is justified in accepting the affidavit and paying whatever refund he certifies. To that extent, relief has been given to the small merchant.

Mr. BARKLEY. I am glad the Senator from Michigan called attention to that provision. The committee tried to simplify the process by which the merchants will get their refunds. In addition to that we eliminated the minimum of $10, so that the merchant may collect any amount from 1 cent up to whatever the amount may be. So under this amendment the claimant will file his own affidavit setting out the amount of the tax, or how much he reduced his price by reason of the decision of the Court; and unless, on the face of the matter, there is ground for suspicion, the Commissioner will accept the affidavit, and pay the refund directly without further process.

Mr. COPELAND. Mr. President, I am glad something has been done for these people; but I call attention to the fact that 800,000 of these small concerns are involved.

This is not a matter of interest merely to one or two or three or a few persons. There are nearly a million of them; so what we do here today is going to be reflected in 800,000 business concerns throughout the country.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Kentucky.

The amendment was agreed to.

Mr. BARKLEY. Mr. President, I offer the amendment, which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 274, line 5, it is proposed to strike out "January 1, 1937" and in lieu thereof to insert "July 1, 1937."

The PRESIDING OFFICER. Without objection, the amendment will be agreed to. The Chair hears no objection.

The CHIEF CLERK. On page 274, line 10, in the committee amendment, after the word "oath" and the period, it is proposed to strike out "The number of claims filed by any person shall be subject to such regulations as the Commissioner may prescribe with the approval of the Secretary" and in lieu thereof to insert:

The Commissioner is authorized to prescribe by regulations, with the approval of the Secretary, the number of claims which may be filed by any person with respect to the total amount paid or collected from such person as tax under the Agricultural Adjustment Act, and such regulations may require that claims for refund of processing taxes with respect to any commodity or group of commodities shall cover the entire period during which such person paid such processing taxes.

Mr. BARKLEY. Mr. President, that is an amendment which clarifies the authority of the Commissioner. Many taxpayers paid taxes on 30 different occasions. The amendment authorizes them to file one claim for the entire amount, covering the entire period, so that the Commissioner may consider the subject as a whole, without having to consider the separate claims piecemeal.

The PRESIDING OFFICER. Without objection, the amendment to the amendment will be agreed to. The Chair hears no objection.

Mr. BARKLEY. I send to the desk another amendment which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The Chief Clerk proceeded to read the amendment, which was to strike out the committee amendment beginning on page 275, line 20, and continuing to page 280, line 17 (sections 906 (a), (b), (c), and (d)), and in lieu thereof to insert the following:

(a) Notwithstanding any other provision of law, no suit or proceeding, whether brought before or after the date of the enactment of this act, shall be brought or maintained in any court for the refund of any amount paid or collected as processing tax, as defined herein, under the Agricultural Adjustment Act, except as provided in this section. The Commissioner shall allow or disallow, in whole or in part, any claim for refund of any such amount within 3 years after such claim was filed, unless such time has been extended by written consent of the claimant.

(b) There is hereby established in the Treasury Department a Board of Review (hereinafter referred to as "the Board"). The Board shall be composed of nine members, who shall be officers or employees of the Treasury Department designated by the Secretary of the Treasury. One of such members shall be designated by the Secretary to act as chairman of the Board. The chairman may from time to time divide the Board into divisions of one or more members, assign the members of the Board thereto, and in case of a division of more than one member, designate the chief thereof. A majority of the members of the Board or of any division thereof shall constitute a quorum for the transaction of the business of the Board or of the division, respectively. A vacancy in the Board or in any division thereof shall not impair the powers nor affect the duties of the Board or division nor of the remaining members of the Board or division, respectively. The Secretary of the Treasury shall assign to the Board such personnel in the Treasury Department as may be necessary to perform its functions. The Board shall have jurisdiction in proceedings under this section to review the allowance or disallowance of the Commissioner of a claim for refund, and to determine the amount of refund due any claimant with respect to such claim. The Commissioner shall make refund of any such amount determined by a decision of the Board which has become final. The proceedings of the Board and its division shall be conducted in accordance with such rules and regulations as the Board may prescribe, with the approval of the Secretary.

(c) The allowance or disallowance of the Commissioner of a claim for refund under this section shall be final, unless within 3 months after the date of mailing by registered mail by the Commissioner of notice that a claim for refund of any such amount has been disallowed, in whole or in part, the claimant files a petition with the Board requesting a hearing on the merits of his claim, in whole or in part. Upon the filing of any such petition the claimant shall be entitled to a hearing as provided herein, and within 3 months after the date of such filing the Board shall set a date for such hearing, which shall be not more than 2 years from the date of filing of the petition. Such hearing shall be held in Washington, D. C., or in the collection district in which is located the principal place of business of the claimant, as the claimant may designate in his petition, or in any place which may be designated by the Commissioner and the claimant by stipulation in writing, and may be continued from day to day. The Board shall notify the claimant and the Commissioner of the time and place set for such hearing by registered mail.

(d) Each such hearing shall be conducted by a presiding officer, who shall be a member of the Board or an officer or employee of the Treasury Department designated a presiding officer by the Secretary of the Treasury and assigned by the Board to preside at such hearing, and shall be open to the public. The proceedings in such hearings shall be conducted in accordance with such rules of practice and procedure (other than rules of evidence) as the Board may prescribe, with the approval of the Secretary of the Treasury, and in accordance with the rules of evidence applicable in courts of equity of the District of Columbia. The claimant and the Commissioner shall be entitled to be represented by counsel, to have witnesses subpenaed, and to examine and cross-examine witnesses. The presiding officer shall have authority to administer oaths, examine witnesses, rule on questions of procedure and the admissibility of evidence, and to require by subpena, signed by any member of the Board, the attendance and testimony of witnesses and the production of all necessary returns, books, papers, records, correspondence, memoranda, and other evidence, from any place in the United States at any designated place of hearing, and to require the taking of a deposition by any designated individual competent to administer oaths. Any witness summoned or whose deposition is taken pursuant to this section shall receive the same fees and mileage as witnesses in the courts of the United States.

(e) The presiding officers shall recommend findings of fact and a decision to the Board or the proper division thereof within 6 months after the conclusion of the hearing. Briefs with respect to such recommendations may be submitted to the Board or such division on behalf of the Commissioner and the claimant within 30

days after such recommendations have been made, unless such time is extended by the Board or such division. Except upon specific order of the chairman of the Board, no oral argument may be presented to the Board or such division after the conclusion of the hearing. The Board or a division shall make its findings of fact and decision in writing as quickly as practicable. The findings of fact and the decision of a division shall become the findings of fact and decision of the Board within 30 days after they have been made by the division unless within such period the chairman has directed that such findings and decision shall be reviewed by the Board. The findings and decision of a division shall not be a part of the record in any case in which the chairman directs that such findings and decision shall be reviewed by the Board. Copies of the findings of fact and decision of the Board shall be mailed to the claimant and the Commissioner by registered mail.

(f) The Board, with the approval of the Secretary of the Treasury, is authorized to draw up a table of costs and fees relating to such hearings, and the preparation of transcripts of record thereof, not to exceed with respect to any one item those charged in the Supreme Court of the United States. Such costs and fees shall be paid by the claimant and be collected in accordance with such rules and regulations as may be prescribed by the Board with the approval of the Secretary. If the hearing provided herein results in a modification of the allowance or disallowance of the Commissioner, such costs shall be returned to the claimant.

(g) A review of the decision of the Board, made after the hearing provided in this section, may be obtained by the claimant or Commissioner by filing a petition for review in the Circuit Court of Appeals of the United States within any circuit wherein such claimant resides, or has his principal place of business, or, if none, in the United States Court of Appeals for the District of Columbia, or any such court which may be designated by the Commissioner and the claimant by stipulation in writing, within 3 months after the date of the mailing to the claimant and the Commissioner of the copy of the findings and decision of the Board. A copy of such petition shall forthwith be served upon the Commissioner or upon any officer designated by him for that purpose, or upon the claimant, according to which party files such petition, and upon the Board. Thereupon the Board shall certify and file in the court, in which such petition has been filed, a transcript of the record upon which the findings and decision complained of were based. Upon the filing of such transcript such court shall have exclusive jurisdiction to affirm the decision of the Board, or to modify or reverse such decision, if it is not in accordance with law, with or without remanding the cause for a rehearing, as justice may require. No objection shall be considered by the court unless such objection shall have been urged before the Board or division and the presiding officer, or unless there were reasonable grounds for failure so to do. If the claimant or the Commissioner shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material, and that there were reasonable grounds for failure to adduce such evidence in the hearing before the presiding officer, the court may order such additional evidence to be taken before such officer, and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Board may modify its findings of fact and decision by reason of the additional evidence so taken and it shall file with the court such modified or new findings and decision. The judgment of the court shall be final, subject to review by the Supreme Court of the United States, upon certification or certiorari as provided in sections 239 and 240 of the Judicial Code, as amended. Such courts are authorized to adopt rules for the filing of petitions for review, the preparation of the record for review, and the conduct of the proceedings on review. If the decision of the Board is affirmed, costs shall be awarded against the claimant, and if such decision is reversed, the judgment shall provide for a refund of any costs paid by the claimant. In case of modification of such decision costs shall be awarded or refused as justice may require. The decision of the Board made after the hearing provided herein shall become final in the same manner that decisions of the Board of Tax Appeals become final under section 1005 of the Revenue Act of 1926, as amended

In the committee amendment, on page 275, line 1, it is proposed to insert after the comma following the word "court", the following: "or the board of review in cases provided for under section 6."

During the reading——

Mr. BARKLEY. Mr. President, the amendment is somewhat lengthy; but the substance of it is to provide for the creation of a board of review in the Bureau of Internal Revenue. Under the bill as reported, the Senator from Michigan and others will recall that the Commissioner was to pass on these questions, and his verdict was to be final. The amendment sets up a board of review which may consider these matters in addition to the determination of the Commissioner, and it seems to me it is in the interest of fairness to the taxpayer.

Mr. COUZENS. Mr. President, I did not hear the amendment read. I desire to ask of whom the board of review is to be made up.

Mr. BARKLEY. It is to be made up of persons in the Treasury Department.

Mr. COUZENS. No new offices are to be created?

Mr. BARKLEY. No new offices are to be created.

The PRESIDING OFFICER. Without objection, the reading of the remainder of the amendment will be dispensed with. The question is on agreeing to the amendment offered by the Senator from Kentucky.

The amendment was agreed to.

Mr. BARKLEY. Mr. President, I offer the further amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The Chief Clerk proceeded to read the amendment, which was to strike out the committee amendment beginning on page 280, line 19, and continuing to page 284, line 24 (sec. 907 (a) to (e), inclusive), and to insert in lieu thereof the following:

(a) Where the refund claimed is for an amount paid or collected as processing tax, as defined herein, it shall be prima-facie evidence that the burden of such amount was borne by the claimant to the extent (not to exceed the amount of the tax) that the average margin per unit of the commodity processed was lower during the tax period than the average margin was during the period before and after the tax. If the average margin during the tax period was not lower, it shall be prima-facie evidence that none of the burden of such amount was borne by the claimant but that it was shifted to others.

(b) The average margin for the tax period and the average margin for the period before and after the tax shall be determined as follows:

(1) Tax period: The average margin for the tax period shall be the average of the margins for all months (or portions of months) within the tax period. The margin for each such month shall be computed as follows: From the gross sales value of all articles processed by the claimant from the commodity during such month, deduct the cost of the commodity processed during the month and deduct the processing tax paid with respect thereto. The sum so ascertained shall be divided by the total number of units of the commodity processed during such month, and the resulting figure shall be the margin for the month.

(2) Period before and after the tax: The average margin for the period before and after the tax shall be the average of the margins for all months (or portions of months) within the period before and after the tax. The margin for each such month shall be computed as follows: From the gross sales value of all articles processed by the claimant from the commodity during such month, deduct the cost of the commodity processed during the month. The sum so ascertained shall be divided by the number of units of the commodity processed during such month, and the resulting figure shall be the margin for the month.

(3) Average margin: The average margin for each period shall be ascertained in the same manner as monthly margins under subdivisions (1) and (2), using total gross sales value, total cost of commodity processed, total processing tax paid, and total units of commodity processed during such period.

(4) Combination of commodities: Where, as, for example, in the case of certain types of tobacco, the articles produced and sold by the claimant are the product of several commodities combined by him during processing, the average margins shall be established with respect to such commodities as a group, and not individually, in accordance with rules and regulations prescribed by the Commissioner, with the approval of the Secretary of the Treasury.

(5) Cost of commodity: The cost of commodity processed during each month shall be (a) the actual cost of the commodity processed if the accounting procedure of the claimant is based thereon, or (b) the product computed by multiplying the quantity of the commodity processed by the current prices at the time of processing for commodities of like quality and grade in the markets where the claimant customarily makes his purchases.

(6) Gross sales value of articles: The gross sales value of articles shall mean (a) the total of the quantity of each article derived from the commodity processed by the claimant during each month multiplied by (b) the claimant's sale prices at the time of processing for articles of similar grade and quality.

(7) The quantity of each article derived from the commodity processed may be either (a) the actual quantity obtained, as shown by the records of the claimant, or (b) an estimated quantity computed by multiplying the quantity of commodity processed by appropriate conversion factors giving the quantity of articles customarily obtained from the processing of each unit of the commodity.

(c) The "tax period" shall mean the period with respect to which the claimant actually paid the processing tax to a collector of internal revenue and shall end on the date with respect to which the last payment was made. The "period before and after the tax" shall mean the 24 months (except that in the case of tobacco it shall be the 12 months) immediately preceding the effective date of the processing tax, and the 6 months, February to July 1936, inclusive. If during any part of such period the claimant was not in business, or if his records for any part of such period are so inadequate as not to provide satisfactory data on prices paid for

commodities purchased or prices received for articles sold, the average prices paid or received by representative concerns engaged in a similar business and similarly circumstanced may, with the approval of the Commissioner, where necessary for a fair comparison, be substituted in making the necessary computations. If the claimant was not in business during the entire period before and after the tax, the average margin, during such period, of representative concerns engaged in a similar business and similarly circumstanced, as determined by the Commissioner, shall be used as his average margin for such period.

(d) If the claimant made any purchase or sale otherwise than through an arm's-length transaction, and at a price other than the fair market price, the Commissioner may determine the purchase or sale price to be that for which such purchases or sales were at that time made in the ordinary course of trade.

(e) Either the claimant or the Commissioner may rebut the presumption established by subsection (a) of this section by proof of the actual extent to which the claimant shifted to others the burden of the processing tax. Such proof may include but shall not be limited to—

(1) Proof that the difference or lack of difference between the average margin for the tax period and the average margin for the period before and after the tax was due to changes in factors other than the tax. Such factors shall include any clearly shown change (A) in the type or grade of article or commodity, or (B) in costs of production. If the claimant asserts that the burden of the tax was borne by him and the burden of any other increased costs was shifted to others, the Commissioner shall determine, from the effective dates of the imposition or termination of the tax and the effective date of other changes in costs as compared with the date of the changes in margin (when margins are computed for weeks, months, or other intervals between July 1, 1931, and August 1936 in the manner specified in subsection (b)), and from the general experience of the industry, whether the tax or the increase in other costs was shifted to others. If the Commissioner determines that the difference in average margin was due in part to the tax and in part to the increase in other costs, he shall apportion the change in margin between them.

(2) Proof that the claimant modified existing contracts of sale, or adopted a new form of contract of sale, to reflect the initiation, termination, or change in amount of the processing tax, or at any such time changed the sale price of the article (including the effect of a change in size, package, discount terms, or any other merchandising practice) by substantially the amount of the tax or change therein, or at any time billed the tax as a separate item to any vendee, or indicated by any writing that the sale price included the amount of the tax, or contracted to refund any part of the sale price in the event of recovery of the tax or decision of its invalidity; but the claimant may establish that such acts were caused by factors other than the processing tax, or that they do not represent his practice at other times. If the claimant processed any product in addition to the commodity with respect to the processing of which there was paid or collected an amount as tax for which he claims a refund, and if the Commissioner has reason to believe that the burden of such amount was shifted in whole or in part by means of the transactions relating to such product, the average margin with respect to such product, and articles processed therefrom, shall also be considered, and shall be determined for the tax period applicable to the commodity and for the period before and after the tax in the manner prescribed in subsection (b) of this section. To the extent the Commissioner determines that the average margin with respect to such product was higher during the tax period than it was during the period before and after the tax, it shall be prima-facie evidence that such amount was not borne by the claimant, but that it was shifted to others.

During the reading—

Mr. BARKLEY. Mr. President, in the interest of time I will explain the amendment briefly.

The amendment has been worked out by the Departments of Agriculture, Justice, and the Treasury, in order that there may be a simplification and at the same time a spelling out of provisions with reference to certain margins. I think the amendment is proper, and I do not wish to take any further time in explaining it or having it read.

The PRESIDING OFFICER. Without objection, the further reading of the amendment will be dispensed with.

Mr. GEORGE. Mr. President, these amendments are committee amendments, and I am not going to resist this particular one. I wish, however, to call attention to the fact that the formula, or the period covered by the computation in this tax bill, has been insisted upon by the Department of Agriculture; and so far as the refunds are concerned, the formula calls for taking a period of 2 years prior to the enactment of the Agricultural Adjustment Act, plus 6 months thereafter.

This period of 2 years, of course, as everybody knows, was when the country was at the very bottom of the depression. Necessarily the formula would work out against all claimants for refunds. Since the matter will be in conference I am merely giving notice now that I shall insist that a fair period of time be actually taken for balancing these equations and determining the proper margin.

Mr. BARKLEY. Mr. President, may I inquire whether the committee amendment to which this provision is intended to be an amendment has been agreed to or is still open?

The PRESIDING OFFICER. It has been agreed to.

Mr. BARKLEY. In order that this amendment to it may be offered, I ask unanimous consent to reconsider the vote by which the committee amendment was agreed to.

The PRESIDING OFFICER. Without objection, the vote by which the committee amendment was agreed to will be reconsidered. The Chair hears no objection, and it is so ordered.

Without objection, the amendment to the amendment will be agreed to, and the amendment as amended will be agreed to. The Chair hears no objection.

Mr. BARKLEY. I offer the further amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 286, in the committee amendment, it is proposed to strike out lines 12 to 16, inclusive, and in lieu thereof to insert:

Any suit or proceeding with respect to any amount paid or collected as taxes under the Agricultural Adjustment Act which is barred on the date of enactment of this act shall remain barred.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. BARKLEY. Mr. President, I offer the further amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. In the committee amendment on page 287, line 23, in section 914, it is proposed to insert, after the word "employee", the words "of the Treasury Department and."

Mr. BARKLEY. Mr. President, if the committee amendment has been agreed to, it will be necessary to reconsider the vote. I am not certain whether it has been agreed to or not.

The PRESIDING OFFICER. Without objection, the vote by which the committee amendment was agreed to is reconsidered.

Mr. BARKLEY. This is a clerical amendment, and does not require any discussion.

Mr. LA FOLLETTE. Mr. President, I am very sorry, but I was called out of the Chamber, and I notice there has been a redraft of sections 906 and 907, which have already been agreed to.

Mr. BARKLEY. Yes.

Mr. LA FOLLETTE. May I ask the Senator whether the amendment changed in any essential respect the policy which the committee adopted?

Mr. BARKLEY. The only substantial change is to provide the board of review, which I mentioned a while ago, to pass on these claims, in lieu of the final determination of the Commissioner of Internal Revenue.

Mr. LA FOLLETTE. But there is to be no change in the manner of arriving at the determination as to whether the tax is absorbed or passed on?

Mr. BARKLEY. No.

Mr. LA FOLLETTE. No change in the period of years that are to be considered, or anything of that kind?

Mr. BARKLEY. Not at all.

Mr. LA FOLLETTE. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. BARKLEY. Mr. President, I send another amendment to the desk, which I ask to have stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. In the committee amendment on page 289 it is proposed to strike out the first sentence in section 915 and to insert in lieu thereof the following:

Funds made available to the Secretary of Agriculture for salaries and administrative expenses by the appropriation "Payments for Agricultural Adjustment" under title I of the Supplemental Appropriation Act, fiscal year 1936, and by the appropriation in section (e) of the Agricultural Adjustment Act, shall be available until June 30, 1937, for transfer to the Treasury Department for salaries and administrative expenses in carrying out the provisions of this title and of title IV, including necessary investigative work, and for refunds and payments under title IV.

Mr. BARKLEY. Mr. President, this amendment merely provides an appropriation to pay the refunds which both the bill as it passed the House and the Senate committee bill overlooked.

The PRESIDING OFFICER. The Chair suggests that it will be necessary to reconsider the vote by which the committee amendment was agreed to.

Mr. BARKLEY. I request that the vote be reconsidered.

The PRESIDING OFFICER. Without objection, the vote is reconsidered, and the question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. BARKLEY. Mr. President, I suggest another amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. In section 217, page 290, line 10, it is proposed to insert "(a)" before the beginning of the section, and on page 290, after line 17, to insert the following new subsection:

(b) Officers and employees of the other executive departments and establishments of the Government may, at the request of the Secretary of the Treasury, and with the approval of the head of any such department or establishment, be detailed to the Treasury Department from time to time for such temporary duties as may be necessary in carrying out the provisions of this title. The proper appropriation of such executive department or establishment from which such officers or employees are so detailed shall be reimbursed by the Treasury Department to the extent of salaries and other compensation paid to such officers and employees during the time they shall be so detailed.

Mr. BARKLEY. Mr. President, this amendment authorizes the detail of other officers of the Government to the Treasury for the purpose of assisting in performing the work with reference to the refunds provided for.

The PRESIDING OFFICER. Is this an amendment to a committee amendment?

Mr. BARKLEY. It is. I ask unanimous consent that the vote by which the committee amendment was agreed to be reconsidered.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the vote is reconsidered.

Mr. COUZENS. Mr. President, I should like to ask the Senator from Kentucky for further explanation. Does he state that we will have to have further authority for the Treasury officials to work on these matters?

Mr. BARKLEY. No. The amendment authorizes the transfer of employees from other places. The working out of these refunds is going to involve a great deal of extra work. This simply authorizes the transfer of other Government employees to assist in the details of working up the claims and passing on them.

Mr. COUZENS. As an example, clerks will be detailed from the Department of Agriculture?

Mr. BARKLEY. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Kentucky [Mr. BARKLEY] to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. RUSSELL obtained the floor.

Mr. JOHNSON. Mr. President, will not the Senator permit me to suggest an amendment about which I think there will be no controversy at all? My colleague and I desire to change the effective date, in line 9, page 270, from the thirtieth to the sixtieth day following the enactment of the bill. I understand there is no objection.

Mr. GEORGE. Mr. President, I ask unanimous consent that the vote by which the amendment appearing on page 270, line 7, be reconsidered for the purpose of enabling the Senator from California to offer the amendment to which he has just directed attention.

Mr. JOHNSON. On page 270 the effective date is fixed as the thirtieth following the date of the enactment of the act, and we desire to strike out "thirtieth" and insert in lieu thereof "sixtieth."

Mr. GEORGE. I may say that the Senator from North Carolina [Mr. BAILEY], who has been much interested in this particular matter, has no objection to the amendment, and the committee has no objection to striking out the word "thirtieth" and the insertion of the word "sixtieth" on line 9, page 270.

The PRESIDING OFFICER. Without objection, the vote by which the committee amendment was agreed to is reconsidered. The question is on agreeing to the amendment proposed by the Senator from California [Mr. JOHNSON] to the committee amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. GEORGE. Mr. President, the Senator from Montana [Mr. MURRAY] has another amendment in the same title he desires to present; and I ask that the vote by which the amendment, on page 267, line 12, was agreed to, be reconsidered.

The PRESIDING OFFICER. Is there objection? The Chair hears none and the vote is reconsidered.

Mr. MURRAY. Mr. President, I send to the desk an amendment which I ask to have stated.

The PRESIDING OFFICER. The clerk will state the proposed amendment to the amendment.

The CHIEF CLERK. It is proposed, in the committee amendment, on page 270, line 24, after the word "foregoing", to insert the words "or from linseed oil."

Mr. GEORGE. Mr. President, it has been agreed upon the part of the committee, although this matter has been before the Senate, to accept this amendment for the purpose of taking it to conference.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. COPELAND. Mr. President, will the Senator from Georgia yield to me?

Mr. RUSSELL. I yield.

Mr. COPELAND. Is this a reopening of the oil section?

Mr. GEORGE. A reopening for these two particular purposes.

Mr. COPELAND. Did the committee accept the amendments?

Mr. GEORGE. It accepted one amendment which extended the effective date from the thirtieth to the sixtieth day.

Mr. COPELAND. How about linseed oil?

Mr. GEORGE. It included fatty acids.

Mr. COPELAND. Is the committee in a more yielding mood, so that it will accept my amendment about whale oil?

Mr. GEORGE. I am sorry; I cannot do that.

Mr. CONNALLY. Mr. President, may I inquire whether the change in date is satisfactory to the Senator from North Carolina?

Mr. GEORGE. I was so advised.

Mr. CONNALLY. What is the purpose of postponing the date to 60 days instead of 30 days after the enactment of the act?

Mr. GEORGE. This is the statement furnished to me:

Numerous crushers on the Pacific coast, principally California, have heavy commitments of oil seeds and oils under contracts made previously to May 1. This extra 30 days' grace is essential to prevent serious financial losses in the case of smaller companies, financial ruin to American industries. This extension will not mean appreciable increase in imports due to the fact that the old crop is well cleared up and the new crop will not be available before December next.

Both the Senators from California have been interested in the matter, and the Senator from North Carolina indicated that he had no objection.

Mr. CONNALLY. I shall not object.

Mr. RUSSELL. Mr. President, I ask that the clerk state the amendment which I have sent to the desk.

The CHIEF CLERK. It is proposed, on page 269, between lines 15 and 16, to insert the following new section:

SEC. 701½. TAX ON JUTE.

Section 601 (c) of the Revenue Act of 1932 is amended by adding at the end thereof a paragraph as follows:

"(9) Unmanufactured jute and jute butts, jute waste bagging, and waste sugar sack cloth, 1.5 cents per pound net weight; jute yarn, cordage, twine and twist of two or more yarns twisted together, 1.6 cents per pound net weight; burlaps and other woven fabrics and bags or sacks wholly or in chief value of jute (excluding bagging for cotton, gunny cloth of single yarns not bleached, colored, or printed, not exceeding 16 threads in warp and filling to the square inch), 2.7 cents per pound net weight; and other manufactured articles wholly or in chief value of jute, 2.8 cents per pound net weight. As used in this paragraph, the term 'net weight' includes the weight of the fiber, fabric, size or sizing, filling, coating, or other ingredients or substances which may be normally included in the marketing of fiber or fabric, but does not include the weight of any wrappers or casings. The tax on articles described in this paragraph shall apply only with respect to the importation of such articles on and after the thirtieth day following the date of enactment of the Revenue Act of 1936, and such taxes shall be in addition to and not in substitution of, any taxes now imposed by existing law.

Mr. RUSSELL. Mr. President, I deeply regret that my amendment has been reached for consideration under such adverse circumstances. I recognize that the hour is late, and that the Members of the Senate are tired. I am fully conscious of the pressure for action on the pending tax bill so that it may be sent to conference.

The amendment is of such tremendous and vital importance to the cotton farmers of this Nation, the most numerous of all classes of farmers, that I feel duty bound to make a statement in behalf of the amendment. I believe the facts of the case are sufficient to demonstrate that fairness and justice dictate its adoption.

A few days ago, when the amendment offered by the Senator from North Carolina [Mr. BAILEY] imposing taxes on various oils was under discussion, Members on this side of the aisle who favored the amendment were accused of abandoning the traditional policy of the Democratic Party in regard to tax and tariff matters, and an effort was made to create the impression that by imposing various taxes to protect the American farmer in his home market we were in effect going beyond the bounds of even the Smoot-Hawley tariff and embracing the doctrine of protection.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Idaho?

Mr. RUSSELL. I yield.

Mr. BORAH. There was so much confusion in the Senate Chamber that I did not understand what the amendment was. Is the amendment offered by the Senator an amendment in regard to jute?

Mr. RUSSELL. It is. If the Senator from Idaho has in his hand the amendment presented by the junior Senator from Georgia it is the amendment concerning which I am now speaking, as this is the only amendment I have offered to the bill.

The charge was made that if Democratic Senators voted for the items presented by the amendment of the Senator from North Carolina we were confessing that the Smoot-Hawley Tariff Act was sound and that we were out-Heroding Herod. I agree with the view that the passage of the Smoot-Hawley Tariff Act did more to demoralize the commerce of the world than any other single act which has ever been passed by the Congress of the United States and signed by the President of the United States. It not only dried up our foreign market for agricultural commodities but it eventually paralyzed industrial production in this country. By reason of its passage there grew up all over the world a complicated system of quotas, embargoes, trade agreements, and restrictions which obstructed all of the normal channels of commerce, and largely caused the deplorable plight in which the American farmer found himself in 1933, and from which he is suffering today. This act caused the conditions which confront the Congress today in the consideration of measures for the protection of American agriculture, which are wholly different from those which existed at the time of the passage of the Smoot-Hawley tariff.

I think that they were all caused largely by the prohibitive duties levied in that act. We cannot, however, restore our world trade today merely by repealing the Smoot-Hawley Tariff Act. Under the system of embargoes and quotas to which I have referred it would be impossible to secure any great increase in our foreign trade and such action would merely serve to make this Nation the dumping ground for the products of the underpaid labor of all the foreign nations of the world. We are pursuing the only course which is open to us to restore world trade, and that is by seeking through reciprocal tariff agreements to remove the many obstructions to trade and commerce which have caused such a great shrinkage in our foreign trade.

During the course of these negotiations, it is necessary to protect not only American agriculture but American industry from dumping from abroad. The press today carries the news that under the countervailing duty provisions of the 1930 Tariff Act, additional rates ranging from 22½ to 56 percent have been imposed on a number of manufactured articles imported from Germany.

Many products from the same nation have already been assessed higher duties under the nondumping provisions of that act. No action of the Congress in reducing the duties which have increased the prices of plow points, tools, shoes, and hats, and practically everything else which the farmer is compelled to buy is proposed. I doubt if it would be very effective were such action taken. Therefore, during this period of adjustment of tariff matters, I favor the fullest measure of protection for the farmers of this country in the retention of the great market afforded him domestically by the 130,000,000 people of the United States.

The cotton farmer cannot be afforded any measure of protection without the imposition of a tax on his greatest and most dangerous competitor. This amendment proposes to impose that tax on jute. Jute is a vegetable fiber, even as cotton is a vegetable fiber. Jute is a somewhat coarser fiber than cotton, but recent developments in methods of processing and manufacturing have placed it in direct competition with cotton produced by the American farmer in practically every form or use to which either can be put.

The fact that jute is in direct competition with cotton was recognized by the United States Department of Agriculture. Under the provisions of the Agricultural Adjustment Act, providing for the levy of a compensatory tax on jute, such tax in the sum of more than 2 cents per pound was levied. This was done when it became apparent that the increased price of cotton resulting from the processing taxes was causing a shift in consumption to jute. As a matter of fact, I do not know of any commodity produced from jute today in this country which is not directly in competition with a commodity manufactured from cotton, designed for the same purpose. Jute in its raw form enters this country tax free, despite the fact that it is in direct competition with cotton, and articles manufactured from the two are almost interchangeable.

Mr. POPE. Mr. President, will the Senator yield?

Mr. RUSSELL. I yield.

Mr. POPE. The Senator has just stated that the Department of Agriculture levied a compensatory tax upon jute, and he recites that as proof to show competition.

Mr. RUSSELL. Surely.

Mr. POPE. May I ask him also if he does not know that the Department of Agriculture recommended the repeal of the law, and it was repealed by Congress some 2 years ago?

Mr. RUSSELL. Mr. President, the Senator from Idaho is wholly mistaken in his facts. The tax on jute was repealed as to a specific type of bag, which was largely used by the potato growers of this country, and when the compensatory tax on jute was removed to show that the competition did exist, the Department of Agriculture relieved cotton bags of the same type, manufactured for the same purposes, from the processing tax on cotton, so both could compete on the same basis. That tax was removed solely, almost completely, I will say, at the demands of the potato producers of this country, and it did not establish the fact that jute and cotton were not in competition. Quite the contrary. It established the fact that they were in competition, because the tax on the cotton bags of the same type was removed at the same time that the Department of Agriculture removed the tax imposed on jute bags.

Mr. POPE. The Senator has referred to the fact that burlap bags are used for potatoes. Does not the Senator also know that they are used for wheat, and that as a matter of fact there is no competition between cotton bags and burlap bags, either as to potatoes or wheat or many other products produced in the West?

Mr. RUSSELL. Mr. President, that argument has been raised by those opposed to a compensatory tax on this product of slave labor in India every time an effort is made to secure justice for the cotton farmer in this matter. I contend that every fact that can possibly be gathered shows that these two commodities are in direct competition, and that cotton can be used to supplant jute in the manufacture of any package material for any commodity. This tax must be imposed if the cotton farmer is not to be forced down further in the direction he has been gradually driven in the past few years toward the same standard of living as those who work in India in the production of jute.

I have in my hand a report of the Bengal Jute Inquiry Committee, a committee established by the Province of Bengal in India to determine the solution of problems concerning jute. This report shows that the producers of jute consider cotton a great competitor, and it shows the trend away from jute and to cotton in the manufacture of bags for the use of potatoes and for the packing of wheat when cotton was 5 and 6 cents per pound. This report is a sad commentary on the failure of the Congress of the United States to afford the cotton farmer protection. It shows the dire results visited on him by forcing him into competition with the lowest-paid classes of coolie labor of the earth, and all the while he was forced to endure this unfair competition, every article which he is compelled to purchase is afforded some measure of protection. Do not talk to me about defeating this amendment on the ground that jute and cotton are not competitive commodities.

The Senate has already voted into this bill a tax on whale oil to protect dairy farmers in the sale of products of cows. Senators voted for that item, protecting the products of cows from the products of whales and then have said that this amendment should be defeated because jute and cotton are not in competition. There is much more kinship between these two vegetable fibers, jute and cotton, than there can possibly be between whales and cows, and the same thing is true of many other articles which were taxed the other day, in part by my vote, to protect the American farmer from the importation of oils which are substituted one for the other.

Mr. BONE. Mr. President, will the Senator yield?

Mr. RUSSELL. I yield.

Mr. BONE. I would not attempt to take issue with the Senator from Georgia on the many uses to which cotton is given over; but I merely wish to say to my friend from Georgia that during the years I have lived in the Pacific Northwest, and have had some familiarity with the movement of commodities, I have never seen cotton bags used to handle potatoes or wheat or other heavy field products, but have always seen burlap bags used. I am not prepared to say that there could not be made a cotton bag heavy enough for such use, but I will say to my friend that I have never seen such a bag used for that purpose.

I do not think it is possible to reconcile the differences that are in the minds of the farmers of this country. The farmers wish to keep their own local markets, but at the same time farmers wish to buy burlap bags. If anyone succeeds in reconciling the differences that have arisen in the minds of the American farmers in connection with the tariff, he will have accomplished a very tough job.

Mr. RUSSELL. No doubt the Senator from Washington has seen more bags made from burlap, which is processed jute. The reason for that lies in the difference in the cost of production of cotton bags on account of the difference in the standards of living between the cotton farmer and the coolies producing jute. This merely emphasized the necessity for affording some protection to the American cotton farmer in the American market, if he is not to be driven to the standard of living of those producing jute in the Orient.

I have in my hand a statement furnished by the Department of Agriculture showing the wages paid to the jute farmers; the female wage ranges from 7.9 cents to 9.1 cents a day, and the male wage ranges from 12.1 cents to 15.2 cents a day. That product, produced by that low-paid labor, comes into this country duty free. Is it any wonder that you see burlap and jute bags instead of cotton bags, when you take this domestic market of the cotton farmer away from him and give it to the product of slave labor of India? Afford him the protection everyone else has, and the situation will be reversed. The cotton farmer will have a market here for one and one-half million additional bales of cotton.

I have here reports from the United States Tariff Commission showing the increase in the importation of this commodity. They show that it has been steadily climbing since 1933, as we have made efforts to increase the price of cotton. As cotton goes up slightly in this country, importation of this low-wage product also increases. For the year 1933, there was imported into this country 517,793,555 pounds of jute, every pound of it in direct competition with the cotton farmer. In 1934, there was a slight reduction to 487,792,815 pounds. When we come to the year 1935, we find that it has climbed to 716,520,742 pounds. Is there any wonder that the cotton farmer is further from parity than any other producer in the country?

The other day I heard a Senator representing a great farm State in the Northwest, when speaking on the commodity-exchange bill, say he wanted to vote for an amendment which would benefit the southern cotton farmer, because he had been through that section of the country and observed the living conditions, and also how the cotton farmer was housed, and that of all the farmers in the country, the cotton farmer was in more dire need of Government aid than any other producer. Not a Senator from the cotton States would deny the charge. We all knew it was absolutely true, and lack of protection against jute is largely the reason for this condition.

The cotton farmer gets less income than any other producer in the country and has contributed more to the wealth of the Nation than any other single line of endeavor. For over 100 years he has been exporting 50 percent of his crop. Subtract the total exports of cotton from the total exports of the United States and see where the United States would have been in the matter of favorable trade balances had it not been for the wealth accumulated for others out of the toil of the cotton farmers.

During all of this time the cotton farmer has borne more of the burden of the tariff than any other class of our citizens. Out of his toil and sweat has been builded the favorable balance of trade which through all the years has caused our country to prosper and has made it the greatest commercial nation of the earth. Despite this contribution to the building of America and the prosperity of all sections, he today is penalized by exorbitant tariffs on commodities he buys and is denied any protection on that which he produces.

The fact that the income of the cotton farmer is lower than that of any other farmer of the Nation is no reproach to him. No one toils harder. I have seen the workers in the cotton fields toiling from break of day to long after sunset.

They work almost unbelievably long hours. The entire family—man, woman, and children; those just out of the cradle, as well as the aged tottering on the brink of the grave—ply themselves at the back-breaking labor necessary to produce this great commodity so absolutely essential to the human family. The farmer's crops are subject to all of the whims of Nature. Even when fortunate, and producing a good crop, the result is discouraging. Often after he has marketed his crop and paid his debts, he faces the winter with his pockets emptied, with himself and children clad in rags, and with scant supplies in his smokehouse.

No, this is no reproach to the farmers. I have lived among them, and, as in other lines of endeavor, the great majority do their best with the means at their command. But this condition is a reflection on the Congress of the United States, which has within its hands the power of some relief.

Mr. BONE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Washington?

Mr. RUSSELL. I yield.

Mr. BONE. The Senator is discussing one of the most confusing problems that confront the American Congress. I walked into a store the other day to buy a little hand brush. A clerk showed me half a dozen brushes, and they were all marked "Made in Japan." I refused to buy one, and they had a difficult time locating one made in America. I do not know what the attitude of the Senator would be toward a matter of that kind, because Japan is one of the largest, if not the largest, purchaser of American cotton. Would the Senator from Georgia have me and all other Americans refuse to buy anything made in Japan, and have Japan refuse to buy American cotton any longer? I know all our farmers in the West wish to have us keep the oil and fat substitutes of foreign nations out of the country.

Mr. RUSSELL. I voted with the Senator on that proposition.

Mr. BONE. The farmers want the burlap bags as cheaply as they can get them.

Mr. RUSSELL. The tax on the oils is not of as great benefit to the cotton farmer as it is to the farmers of the Senator's State. It will be helpful in the prices of cottonseed oil and peanut oils produced in the Southeast. Many of the taxes, however, will increase the cost of the articles which the cotton farmer is compelled to buy. Such things as soap and other household necessities would be much cheaper without the imposition of the taxes on oils already included in this bill.

I have always believed in protection for the American farmer in his domestic market. I have supported every tax that has been offered to protect the American farmer in his domestic market. The importation of jute means that 1,500,000 bales of cotton each year are being displaced in the domestic market through use of this substitute. The cotton farmer is forced to sell in the world market and cotton itself competes with the lowest-paid foreign labor in the world.

This is the only cotton-producing country on earth that stands by and sees its cotton farmers thus penalized.

We often hear references to the condition of the poor peons in Mexico. However, the Mexican Government does not force the peon to compete with this product of the coolies of the Orient, but levies a tariff on all of the raw jute which enters Mexico in competition with their cotton. Cotton is produced in Brazil by underpaid peons, with a low standard of living, but Brazil levies a tax on all of the raw jute imported into that country. The United States is forcing our cotton farmers to compete with the laborer who is paid 8 and 10 cents per day in India, without affording him the slightest protection. In Colombia and Peru, where only a small amount of cotton is produced, the cotton-producing industry is protected by the imposition of a tax upon importations of raw jute. When this is suggested here, the powerful combine dominating this industry inspires a flood of telegrams in opposition almost before the amendment is proposed. Soviet Russia is roundly condemned from many sources for the condition of its labor. We hear a great deal about the hardships imposed upon those who toil in that nation, noted for its exploitation of labor. Soviet Russia, however, does not compel her producers of cotton to enter into competition with jute without any protection. A duty of 40 percent ad valorem is levied on jute to protect the cotton producers there.

Various parts of the British Empire producing cotton levy substantial duties on importations of jute and jute products from India, another part of the British Empire.

When it is proposed to protect the cotton farmer in his domestic market, I am amazed to find those who fear that the price of sacks used in their States will be increased a few cents, or who have constituents who have waxed wealthy from dealing in this product of slave labor, should seek to deny the petition of the struggling cotton farmer and say, "No; I will resist affording the cotton farmer one iota of protection of any kind against the importation of this product from far-away India."

Mr. BYRNES. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from South Carolina?

Mr. RUSSELL. I yield.

Mr. BYRNES. When this question has been raised heretofore, arguments have been used rather effectively that one reason why cotton should not be used was that in the Orient it was not desired to have a cotton covering over a bale of cotton. Last fall on a visit to Shanghai I noticed that the Chinese had their cotton wrapped in cotton and not in jute.

Mr. RUSSELL. Of course, China produces some cotton.

Mr. BYRNES. The argument has been used that here in the United States we should use jute because it would be acceptable to the cotton buyers and manufacturers in Shanghai.

Mr. RUSSELL. There have been more specious and fallacious arguments against this just demand of the cotton farmer of the South than I have ever heard urged against any other proposal advanced in this body since I have been here. The report of the India Jute Committee, to which I have heretofore referred, points out the various uses to which jute is put and the prospect of new fields.

The report refers to articles of jute clothing and demonstrates that clothing is being made of jute and is worn in many parts of the world. It is used for twine, carpets, bookbinding, furniture, and oilcloth. The most amazing of all are several pages of the report devoted to the competition which they find is being afforded jute by cotton.

This is a sad commentary on the lack of protection afforded the cotton farmers. Imagine a finding by a governmental agency in the land where the jute is produced on wage scales of around 8 cents per day for women and 12 cents per day for men complaining because of competition from cotton. When cotton was down around 5 and 6 cents, this competition must have been keen, and no one can prophesy to what low estate the cotton farmer will be forced by the increasing competition with jute unless he is afforded some protection.

There is no article produced from jute that cannot be produced from cotton. But representatives of the cotton States who vote for the many taxes on various kinds of oil from different products, submitted in the hope of aiding the dairy industry and other lines of agriculture, are now told that it ill becomes anyone to say jute is competitive with cotton.

Mr. President, I ask permission to have inserted in the RECORD a table showing the wages paid the laborers who produce jute, and also to have incorporated in the RECORD a statement prepared by an economist of the Department of Agriculture which shows the uses for which jute imported into this country is put, each and every one of them in competition with cotton products of the same type.

There being no objection, the chart and statement were ordered to be printed in the RECORD, as follows:

Average daily wage rates of labor in the Madras Presidency in 1931

Occupation and class of labor	Indian currency	United States currency
	Rs. As. P.	Cents per day
Female coolies (gin)	0 4 10	8.6
Male coolies (gin)	0 7 4	13.1
Female coolies (press)	0 5 1	9.1
Male coolies (press)	0 8 6	15.2
Female coolies (rice mill)	0 4 3	7.6
Male coolies (rice mill)	0 6 9	12.1
Female coolies in fields	0 4 5	7.9
Male coolies in fields	0 7 0	12.5

STATEMENT

The following figures are estimates of the various important uses for jute expressed as percentages of total imports during the 10 years ended with 1935:

Use	Percent
Bags	53
Bagging for cotton	16
Textile wrapping	8
Wool carpets and rugs	8
Twine and cordage	6
Linoleum backing	3
Roofing	1
Webbing	1
Other	4
Total	100

Although these figures are the best we have available at the present time, their accuracy is somewhat questionable in some cases, and for that reason the basis for each estimate is discussed below in considerable detail.

Bags: Jute bags are practically all made of jute burlap, nearly all of which is imported, domestic production being negligible. The estimated production of burlap bags amounted to 488,600,000 pounds in 1929, according to figures submitted in the "Hearing on Processing Taxes on Commodities in Competition with Cotton", under section 15 (d) of the Agricultural Adjustment Act, July 31 to August 1, 1933, exhibit 18, p. 315. This was equivalent to about 76.2 percent of the total burlap imported in 1929.

The general impression in the jute trade seems to be that from 75 to 80 percent of the total burlap imported is used for the manufacture of bags. Imports of all kinds of burlap averaged about 504,782,000 pounds during the 10 years ended with 1935, of which about 76 percent, or 383,600,000 pounds, was probably consumed in the manufacture of bags. In addition to bags made from imported burlap, about 38,878,000 pounds of jute bags were imported annually during the 10 years ended with 1935. Thus the average poundage of burlap used in bags probably amounted to something like 422,500,000 pounds annually during the past decade, according to available information. This quantity is equivalent to approximately 53 percent of the total imports of jute and jute manufactures during the past decade.

The following figures show roughly the distribution of burlap bags by uses:

Use	Percent
Millfeed	40
Fertilizer	12
Sugar	10
Potatoes	9
Wheat	8
Flour	3
Other	18
Total	100

These are only rough estimates and canot be more than approximately accurate for the 10-year period ended with 1935, and in some instances these figures may not be at all representative.

Cotton bagging: Imports of new jute bagging for cotton, and waste jute bagging for cotton averaged about 98,500,000 pounds during the decade ended with 1935, according to calculations made on the estimates available for the average weights of these materials and official statistics for imports. Cotton bagging manufactured from imported jute butts averaged about 69,000,000 pounds for the 5 census years ended with 1935. The Bureau of the Census reports cotton bagging in square yards, and these figures are converted to linear yards by multiplying by eight-tenths, and to pounds by multiplying the estimated figures for linear yards by 2. Much of the material used to make the cotton bagging reported by the census is doubtless second-hand materials that have been reworked and rewoven. The average imports of jute butts averaged about 32,000,000 pounds annually during the 10 years ended with 1935 and since available information of these classifications of jute products. On the other hand, this apparent discrepancy may be a real one, accounted for by a lack of representativeness of census figures with respect to the decade ended with 1935. Be that as it may, approximately 50,000,000 pounds is the only figure available showing the use of jute in twine and cordage and is equivalent to about 6 percent of the total jute imports for the past decade.

Linoleum backing: The most recent information available indicates that about 5 percent of all burlap is used for this purpose. This figure was given in testimony at the "Hearing on Processing Taxes on Commodities in Competition with Cotton", under section 15 (d), Agricultural Adjustment Act, July 31–August 1, 1933, page 248. On this basis about 25,000,000 pounds, or approximately 3 percent of the total imports of jute and jute products, would have been used for this purpose during the past 10 years.

Roofing: Very fragmentary information, reported by the Tariff Commission in "Jute Cloths", Tariff Information Surveys on articles in paragraphs 262, 279, 284, and 408 of the Tariff Act of 1913, indicates that less than 1 percent of the total imports of jute and jute products is used for roofing.

Webbing: Imports of jute webbing averaged about 857,000 pounds during the 10 years ended with 1935, against domestic production averaging about 3,600,000 pounds for the 4 census years ended with 1933. Thus, the total poundage of these materials amounted to about 4,500,000 pounds, or considerably less than 1 percent of the total poundage of jute and jute products imported during the last 10 years.

Twine and cordage: The production of jute twine and cordage averaged approximately 50,000,000 pounds during the 4 census years ended with 1933. Most of these materials are made from imported raw jute. However, the fact that the combined poundage of jute carpet yarns and twine and cordage exceeds that for raw jute imports may indicate that some waste materials are used in the manufacture of both, indicates that most of these imported jute butts are used for cotton bagging, it would seem appropriate to add, say, 30,000,000 pounds to the 98,500,000 pounds of imported bagging. Thus, approximately 128,500,000 pounds of jute were probably used, on the average, for cotton bagging, or approximately 16 percent of the total imports of jute for the last decade. These figures obviously do not include some 37,000,000 pounds of "reworked" jute bagging and considerable jute sugar-bag cloth which is imported as containers for raw sugar and subsequently converted to bagging for cotton.

Textile wrapping material: According to trade estimates for 1932, about 12 percent of the total burlap consumed in the United States in that year was used for wrapping textile-mill products. If this figure can be taken as representative for the past decade, about 60,600,000 pounds, or 8 percent of the total jute and jute manufactures imported during the past decade was used for this purpose.

Wool carpets and rugs: The wool carpet and rug industry used approximately 66,000,000 pounds of jute yarns annually during the 3 census years ended with 1931. These yarns are made mainly from imported raw jute, although a small quantity of jute yarns are imported. The volume of these yarns is thus estimated to be about 8 percent of the total imports of jute and jute manufactures.

Miscellaneous uses: Use other than those indicated above include (1) burlap for wrapping materials other than textiles, (2) burlap used for curing concrete, (3) brattice cloth, (4) base for hair felt, (5) foundation material for hooked rugs, (6) paddings and interlinings, (7) cotton-picking sheets, etc. These "other" uses combined probably account for about 3,180,000 pounds or approximately 4 percent of the total imports of jute and jute products into the United States during the past decade.

Mr. RUSSELL. Mr. President, I have pointed out that as the price of cotton has increased the production of jute has greatly increased and, therefore, unless the cotton farmer is to be permanently denied any approach whatever to parity, it will be necessary for the Congress to take some step to protect this industry.

Not only is this a question which affects the cotton farmer, but it is a question which affects the manufacturer and textile worker.

We have heard many complaints here from the representatives of the Eastern States that it has been found necessary to dismantle many cotton mills in New England. The drift of the mills to sites nearer the cotton fields is not the only cause of the loss of these industries. If cotton could be afforded this protection and devoted to the uses to which jute processed in India is now put, I thoroughly believe it would go a long way toward making the spindles in the New England mills hum again.

On this question the interest of the cotton manufacturer, the cotton textile worker, and the cotton producer are identical. All should unite in a common cause for protection against this slave product. The largest part of it is spun and processed in India. One great combine controls most of the trade in jute. Mills have been dismantled in this country to ship the machinery abroad in order that the mills might be reestablished in India to get cheap labor, thereby denying employment and forcing on the relief rolls mill operatives in this country.

A chart showing the annual earnings of the workers in the jute mills in India is most interesting. Bear in mind that the great combine which controls the trade in jute has most of its mills in the Orient, and brings the manufactured articles into this country, not only to the detriment of the cotton farmer, but causing unemployment among our mill workers.

The highest-paid worker in these mills, financed with American capital in India, is the worker at the roving machine. He received $10.14 per month, or $121.68 for a year's work. We find workers in the receiving room, employed by American capital to the loss of the American farmer and laborer, who receive $2.03 per month, or the fabulous sum of $24.43 per year. The pickers in the carding room receive $3.14 per month, or $37.74 per year. Through all of the various classes of work afforded in the jute mill, this is a fair picture of the wages which are paid for a year's labor in processing and manufacturing jute in direct competition with the mill workers of America. These mills were erected with American capital, financed by American dollars, and representing American wealth; and yet when an effort is made to restrict the importations of this product into this country, and to force these jobs to be opened to American workers, we encounter opposition.

Mr. President, this is in no sense a threat, but it might be accepted in the nature of a warning. I do not like to assume the role of prophet. I desire to point out something, however, which may be of interest to those representing lines of agriculture other than cotton. If my amendment be not adopted, the cotton farmer for a season will continue to endure discrimination and hardship, but he will not starve. He is trained in adversity and reared on hardships. However, he lives in a land on which God has smiled and which has unlimited possibilities in lines other than cotton. Senators are helping the dairy industry in this bill and therefore are making dairying more attractive. If they do not help cotton, this very fact will redound to the disadvantage of the dairy industry, because in the South 10 and 12 months' grazing is possible. We have caught new visions down there. It will not be long until the South will have dairy herds and the products of these herds will be invading the markets of this Nation which Senators are seeking to protect. We have started producing wheat in the South and if the farmer is forced out of cotton it will increase competition within this country from those not subject to the 42 cents per bushel tariff. We have started producing cattle to such an extent that some of the great packers of the Nation are even this year opening packing houses in the South.

There are few agricultural commodities which cannot be produced in the South; and while our people by instinct and inheritance are cotton producers, we will not be forced into bondage, or to the standard of living which prevails in India. When the cotton farmer prospers, he is also the greatest market for the manufacturers of this Nation, for he spends that which he earns.

In my judgment, the adoption of this amendment will not only benefit the cotton farmer and the cotton-producing section, but will benefit all sections. Not only will justice be served, but the development of all lines of agriculture will be benefited by the adoption of the amendment.

Mr. President, I ask that an editorial printed in the Atlanta Constitution of June 1, 1936, entitled "New Uses for Cotton", be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The editorial is as follows:

[From the Atlanta (Ga.) Constitution, June 1, 1936]

NEW USES FOR COTTON

The Cotton Textile Institute is constantly experimenting to find new uses for cotton and demonstrating to interested industrialists its practical value for commercial uses.

Every year the Federal Government spends a large sum of money for the same purpose, but, paradoxically, blocks the use of a huge quantity of cotton for domestic consumption by refusing to place an equalizing tariff duty on all jute, jute products, and sisal coming into the country.

Substitution of cotton for jute in the manufacture of many products would be "new" use, and would not necessitate long and costly experiments. The wrapping of 12,000,000 bales of American cotton requires annually 75,000,000 yards of bagging; the wrapping now used for this purpose is jute, and if the American staple were wrapped in cotton bagging it would require 85,000,000 pounds of cotton bagging annually, using up approximately 170,000 bales for a 12,000,000-bale crop—and more in proportion, if a larger crop were produced.

Jute is also used in making sacks for fertilizers and dozens of other products; in the manufacture of carpets, rugs, and other articles such as twine and rope, preferred for these purposes by the manufacturers because a beneficent Government admits the products of coolie labor to compete with American cotton labor without levying an equalizing tariff.

Cotton could displace jute completely from every use in this country with a resulting better manufactured product that would be more satisfactory to the public, and in the instance of cotton, result in a high-density, gin-compressed bale, graded by Federal inspectors and sold at net weight.

American cotton producers lose millions of dollars every year by reason of the slipshod, unbusinesslike manner with which the staple is handled from the time it is ginned until it reaches the floor of the spinner, and just why all Congressmen and Senators from the cotton States do not unite in a "cotton bloc" to force through measures that will secure for the South's great money crop its full commercial rights, surpasses all understanding.

Despite the fact that American cotton is preferred in the world markets to that of any other country, it is gradually losing out. One reason is that our bale is the most disreputable in appearance that appears in any European market. The jute bagging has been slashed again and again by village "samplers", and bears huge patches; the coarse weave of the jute bagging fails to protect the staple from grime of warehouse floors, loading platforms, and car bottoms, while spinners find it interspersed with threads of jute that have become imbedded.

The American Cotton Manufacturers' Association, at its recent meeting in Pinehurst, N. C., adopted a long set of resolutions, aligning its membership in favor of many benefits to American cotton, but resolutions passed at an annual convention, unless followed by an active campaign to carry out the purpose of such action, are ineffective.

Mr. COPELAND. Mr. President, I have the deepest sympathy for the Senator from Georgia; but the trouble is, if I may say so to him, that he did not go to see the farm leaders. If he had gone to see the Washington representative of the American Farm Bureau Federation and the Washington representative of the Grange—those leaders who exploit and mislead the farmers of America—and had brought his petition here, it would have been passed overwhelmingly. I am sorry he did not do that.

Yesterday a tax of 205 percent was put on inedible whale oil. Now, the Senator from Georgia comes here, but, lacking the support of the American Farm Bureau Federation leader and the Grange leader, his amendment will be rejected.

Having said that, however, I must say for my farmers—speaking now really for my farmers, and not to the leaders—that every farmer in New York State is opposed to this amendment. The truck farmer and the dairy farmer and all the other farmers are opposed to it, and I sincerely hope, with all the earnestness shown by the Senator from Georgia, that his amendment will be voted down. Next year, however, let me beg the Senator from Georgia to go and see the leaders—these men who come here and farm the farmers—and he will get a tariff even over 205 percent. [Laughter.]

Mr. WAGNER. Mr. President, I ask unanimous consent to have printed in the RECORD sundry telegrams on this subject which I have received.

There being no objection, the telegrams were ordered to be printed in the RECORD, as follows:

NEW YORK, N. Y., *June 5, 1936.*

Hon. ROBERT F. WAGNER,
United States Senate:

As members National Association Waste Material Dealers and New York Association Dealers Paper Mills Supplies strongly urge defeat of Senator Russell's amendments to 1936 revenue bill, providing import tax on jute and jute products. Consider proposals discriminating, unfair, and placing undue hardships and expensive costs on manufactures of roofing felts, paper, and kindred lines. Proposed tax is in cases as high as 120 percent of cost of raw materials. Your unceasing efforts to defeat such amendments are earnestly requested.

DARMSTADT, SCOTT & COURTNEY.

NEW YORK, N. Y., *June 5, 1936.*

Senator ROBERT F. WAGNER,
United States Senate:

Understand proposal to place duty on scrap bagging for paper making and remanufacturing purposes now taking place in Senate amendment proposed by Senate RUSSELL, placed in revenue bill section 702½. In name of New York Association of Dealers in Paper Mills Supplies and National Association of Waste Material Dealers, of which we are members, we emphatically protest against this proposed tax as outlined to you in our letter of April 2.

WILLIAM STECK & CO., INC.

NEW YORK, N. Y., *June 5, 1936.*

Hon. ROBERT F. WAGNER,
Senate Office Building:

Have just been advised that Senator RUSSELL, of Georgia, is attempting to add an amendment to the revenue bill to provide in section 702½ for an import tax on jute and jute products varying from 1½ to 2⅛ cents per pound. Strongly urge that you oppose this last-minute attempt by sectional interests to secure legislation not in any way justified and harmful to members of this association in every section of United States.

NATIONAL ASSOCIATION OF WASTE MATERIAL DEALERS, INC.,
Times Building.

BROOKLYN, N. Y., *June 5, 1936.*

Hon. ROBERT F. WAGNER,
Senator from New York, Senate Office Building:

Senator RUSSELL, Georgia, has proposed an amendment to revenue bill placing additional duty on unmanufactured jute and jute butts, jute waste bagging, and waste sugar cloth; also additional duties on jute yarns of every description. Any such bill, if passed, would be absolutely ruinous to our industry, and we hope we can count on you to see that this Russell amendment is defeated and not slipped through and added to any bill in the rush to adjourn. It was impossible to get you on the phone this morning, but we hope for your support against this unnecessary and discriminatory taxation.

AMERICAN MANUFACTURING CO.

BROOKLYN, N. Y., *June 5, 1936.*

Senator ROBERT F. WAGNER:

We urgently request your opposition to an amendment to the revenue bill now before the Senate offered by Senator RUSSELL, which proposes an excise tax on burlaps of 2.7 cents a pound which, if passed, will be a severe penalty chiefly upon farmers throughout the country as well as upon all factory products now packed in burlap bags for rice, beans, fertilizer, flour, seed, sugar, and many other commodities.

BEMIS BRO. BAG CO.

BUFFALO, N. Y., *June 5, 1936.*

Hon. ROBERT F. WAGNER,
Senate Office Building:

Request your opposition to amendment to revenue bill now before Senate by Senator RUSSELL, proposing excise tax on burlaps of 2.7 cents a pound. If passed, this tax would represent a penalty chiefly upon farmers throughout the country but also upon products now packed in burlap bags such as rice, beans, fertilizer, flour, seed, sugar, and many other commodities.

BEMIS BRO. BAG CO.,
F. W. COPLEY.

BUFFALO, N. Y., *June 5, 1936.*

Hon. ROBERT F. WAGNER,
Senate Chamber:

Senator Russell amendment to revenue bill placing excise tax on burlap 2.7 cents per pound. Respectfully request you vote against this Russell amendment, as it would inflict an unnecessary penalty on all users of burlap bags.

CHASE BAG CO.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Georgia [Mr. RUSSELL].

The amendment was rejected.

Mr. McADOO. Mr. President, I send to the desk an amendment which I ask to have stated. I also send to the desk and ask to have printed in the RECORD a letter addressed by the chairman of the Finance Committee to the Secretary of the Treasury relative to the amendment and the reply of the Secretary of the Treasury. In the reply, the Treasury Department says that the amendment as drawn is not objected to by the Department.

The PRESIDING OFFICER. Without objection, the letters will be printed in the RECORD.

The letters are as follows:

MAY 16, 1936.

Hon. HENRY MORGENTHAU, JR.,
Secretary of the Treasury, Washington, D. C.

DEAR MR. SECRETARY: Referring to the report of the Acting Secretary, dated March 11, 1936, relative to S. 3941, "A bill to amend paragraph 1730 (a) of the Tariff Act of 1930, as amended, to provide that oil, meal, and other products produced from the processing of sardines by reduction process shall not be exempt from duty", I wish to quote from a letter just received from Senator W. G. McADOO:

"In lieu of the paragraph so proposed by Mr. Taylor, I propose to offer on the floor of the Senate an amendment to the forthcoming revenue bill, as follows:

" 'Notwithstanding the provisions of paragraph 1730 of the Tariff Act of 1930, all fish oil produced from pilchards (Sardenia caerulea) taken and processed on the high seas extending westerly from the territorial waters of the United States contiguous to the western coast of the United States, and brought directly or indirectly into the United States, shall be assessed with duty and import tax at the lowest rates which would be applicable to such oil if produced in a foreign country other than Cuba. Such duty and import tax shall be assessed and collected pursuant to such regulations as the Secretary of the Treasury may prescribe.'

"Will you kindly and at once request the Treasury Department to advise you if it has any objection to the amendment I so propose to offer?"

It will be appreciated if you will give this matter your prompt attention and advise me with reference to the amendment intended to be proposed by Senator McADOO.

Thanking you for a prompt report, I am,

Sincerely yours,

PAT HARRISON.

MAY 22, 1936.

Hon. PAT HARRISON,
Chairman, Committee on Finance, United States Senate.

DEAR MR. CHAIRMAN: Reference is made to your letter of May 16, 1936, setting forth an amendment which Senator McADOO proposes to make to the revenue act now pending before your committee, and requesting the views of the Department on the proposed amendment.

The amendment proposed is similar in principle to S. 3941, a bill entitled "A bill to amend paragraph 1730 (a) of the Tariff Act of 1930, as amended, to provide that oil, meal, and other products produced from the processing of sardines by reduction process shall not be exempt from duty", upon which this Department commented in a letter transmitted to you under date of March 11, 1936. The amendment intended to be proposed by Senator McADOO, however, does not contain the objectionable features of S. 3941, which were pointed out in that letter.

The Department is informed that the correct scientific name of the pilchards contemplated by the proposed amendment is "Sardinia caerulea" instead of "Sardenia caerulea", as expressed in the proposed amendment.

In order that difficult questions as to the place of taking fish may be avoided without materially changing the intended effect of the proposed amendment, it is suggested that the words "taken and" following the parentheses in the proposed amendment be eliminated.

If these changes are made, the Treasury Department will have no objection to the amendment.

Very truly yours,

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

The PRESIDING OFFICER. The amendment offered by the Senator from California will be stated.

The CHIEF CLERK. On page 272, after line 12, it is proposed to insert the following:

SEC. 811. Fish oil produced from sardines: Notwithstanding the provisions of paragraph 1730 of the Tariff Act of 1930, all fish oil produced from pilchards (Sardinia caerulea) processed on the high seas extending westerly from the territorial waters of the United States contiguous to the western coast of the United States, and brought directly or indirectly into the United States, shall be assessed with duty and with import tax at the lowest rates which would be applicable to such oil if produced in a foreign country other than Cuba. Such duty and import tax shall be assessed and collected pursuant to such regulations as the Secretary of the Treasury may prescribe.

Mr. KING. Mr. President, the amendment may go to conference.

The PRESIDING OFFICER. Without objection, the amendment offered by the Senator from California will be agreed to. The Chair hears no objection.

Mr. LA FOLLETTE. Mr. President, I have been advised that the senior Senator from California [Mr. JOHNSON] secured an amendment to section 704, to be found on page 270, changing the effective date of title V, the amendments to taxes on certain oils, from 30 days to 60 days following the date of the enactment of the measure.

I ask unanimous consent for the reconsideration of that amendment in order that I may present certain considerations which I think are vital to the entire title.

Mr. JOHNSON. Mr. President, as the Senator who presented the amendment, I make no objection to reconsideration for the presentation that the Senator may require. It

was not a question of securing the adoption of an amendment of which the Senator from Wisconsin was not aware, however, because I saw him on the floor during the time of its presentation and during the time that the Senate acted upon the amendment; but I am perfectly willing to consent to a reconsideration so that he may be heard.

The PRESIDING OFFICER. The Chair inquires of the Senator from Wisconsin whether it will be necessary to reconsider the action on the committee amendment.

Mr. LA FOLLETTE. It will be necessary to reconsider the action on the committee amendment, and to reconsider the vote whereby the amendment offered by the senior Senator from California was adopted. I therefore make that request for unanimous consent.

The PRESIDING OFFICER. Without objection, the vote by which the committee amendment was agreed to will be reconsidered. The Chair hears no objection.

Without objection, the vote by which the amendment of the Senator from California to the committee amendment was agreed to will be reconsidered. The Chair hears no objection.

Mr. LA FOLLETTE. Mr. President, I want the Senate to be apprised of the effect which I think will flow from the amendment offered by the Senator from California.

An attempt was made in the consideration of a previous revenue bill to lay certain excise taxes upon fats and oils. The immediate effect of that action was to increase the price of the domestic product. However, those in the United States who were using the particular fats and oils soon found that by taking byproducts of these oils, or substitutes for them, they could effectively defeat the action of Congress in imposing the excise taxes.

For the purpose of this discussion I wave aside any of the arguments pro and con concerning the action taken by the Congress. However, in connection with this particular bill, an effort was made by the Senator from North Carolina and the junior Senator from Texas to impose taxes against substitutes and derivatives of these fats and oils which had been employed to all intents and purposes as a means of avoiding and evading the policy of Congress as declared in the previous act.

When the pending bill was being considered by the committee, if my memory serves me correctly, the action of the committee, as publicly announced, took place some 10 days or 2 weeks ago. Therefore all of the consumers of these commodities were put on notice that favorable action had been taken by the committee to plug this loophole which had been discovered in the law.

We considered that allowing the 30-day period following the enactment of the act would be entirely sufficient to meet the situation. The point I desire to make and the point which I think the Senate should take into consideration is that under the amendment offered by the senior Senator from California, importers who desire to use these commodities which have been employed for the purpose of avoiding the policy of Congress and the Government, will have not only the 60-day period the amendment provides, but they have had the period which has elapsed since the time when the committee acted favorably on the amendment and announced its decision to the public.

Therefore, to all intents and purposes, 80 days will probably elapse before these provisions will become effective and after those who have been importing these products have had notice that the plugging of this loophole was to take place.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. CONNALLY. If it is not the purpose to permit the very thing the Senator is talking about, what is the purpose? The purpose of the amendment is to allow people to bring in large quantities of the imports before the law becomes effective.

Mr. LA FOLLETTE. The point I desire to make is that if we give the importers, the users of these commodities for domestic purposes, 80 days in which to import their supplies, without title V becoming effective, it is my firm conviction that we may be certain that the amendment will not be effective in a great many instances for an entire year. I do not believe the Senate realizes the effect of the amendment offered by the Senator from California.

Mr. President, if there is some particular commodity which, because of the crop year in which it is grown, or for some other reason, ought to be given special consideration, I shall not object to giving it special consideration, but the insertion of this amendment as to the effective date of the title will, in my opinion, operate to give the processors and manufacturers a full 80 days in which to import their supplies. It is certain, in my opinion, that most of them will import all they need for a whole year during that period of time.

Mr. JOHNSON. Just a word in response, Mr. President. Is this not much ado about nothing? Thirty days additional time was given under the amendment, making the effective date, instead of the thirtieth day, the sixtieth day, after the enactment of the bill. That is the amendment.

If such a wrong is about to be committed, is it not obvious that it will be committed within the 30-day period, or, as put by the distinguished Senator from Wisconsin, within the 50 days which he says will elapse? So that, after all, we are discussing 30 days of grace which would be accorded under any circumstances, it seems to me, in an amendment of this character.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

Mr. JOHNSON. I yield.

Mr. LA FOLLETTE. The action of the Senate committee was taken some time ago, and it was announced to the country. Furthermore, some period is going to elapse before the law will actually become effective. So it is a question of 80 days instead of 30 days.

Mr. JOHNSON. No; the question is whether or not any wrong is going to be done, not a question of 80 days or 50 days or 30 days. If a wrong is going to be done, then there may be some substance to the argument that is advanced by the Senator from Wisconsin. But when he says that 50 days grace are allowed—which I deny—if any wrong were to be committed, the entire wrong could be committed within that time.

If it be such an important thing that must be done to protect somebody who is undisclosed here, then that protection could be accorded by giving no days of grace at all. The committee accorded 30 days of grace. I asked for 60 days of grace, and it seems to me that we are wasting time in this period of the day in debate over whether we will give 60 days of grace to men who have asked it in good faith, men who live in the State from which I come, or whether we will give them, as the bill did originally, 30 days of grace.

Mr. LA FOLLETTE. Mr. President, just one word in reply. As I see it, it is not merely a question of 60 days or 30 days, because every importer of these commodities against which the tax is now proposed to be invoked has had notice ever since the Finance Committee adopted the amendment offered by the Senator from North Carolina and the Senator from Texas that there was a possibility that the tax would be imposed.

We can assume that the corporations and individuals who import these commodities are intelligent, and that at the moment they learned of that action by the committee they sought to procure from outside of the United States as great a supply as they could possibly procure within the terms of the amendment.

The Senator from California cannot contend, in my opinion, that there is no substantial difference between the 30-day period of grace and the 60-day period of grace, because it means that every boat coming to the United States from the countries of the world which produce these various commodities will be loaded with imports for the domestic processors. If we give them 60 days, we will simply double, or perhaps triple, the quantity of commodities which they can import within that time.

It may be that Senators are opposed to this proposition, and that is all very well and good. If they are opposed to it, they have a perfectly legitimate right to take whatever action here they see fit to take. But I contend that we should not have the policy which has been adopted by the committee and adopted by the Senate destroyed by allowing such a long period of time during which the processors can import huge quantities of these commodities.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. NORRIS. I confess, Mr. President, I do not understand why this time should be given at all.

Mr. JOHNSON. Exactly.

Mr. NORRIS. What are the articles that come in, and why do they need any time?

Mr. LA FOLLETTE. The articles are found on page 267, line 15, going to line 16 on page 268. A large number of commodities are covered by the amendment at that place.

Mr. NORRIS. What is the object of giving time?

Mr. LA FOLLETTE. That is the usual procedure to permit the usual period of readjustment, as we do, for example, in a tariff act. We do not make it effective on the day that it passes.

Mr. NORRIS. I think as a rule we do, but we make exceptions. I was wondering in this case why the exception was necessary.

Mr. LA FOLLETTE. This is the usual peroid of grace which, as I understand, is given following the enactment of legislation which affects competitive or import situations. All I am saying is that I believe the amendment offered by the Senator from California will go a long way toward making this provision which the Senate itself already has agreed to, ineffective so far as the next year is concerned.

Mr. JOHNSON. Mr. President, just a word. I thank the Senator from Wisconsin very much indeed for his gracious remark that some Senators may want to vote one way in this matter and some may want to vote another, and that all have a right so to vote. I am delighted with the admission that is accorded and the consent that is thus given me.

I have been for this amendment. I have been regularly in favor of the amendment and have voted for it when it has been voted on at all. I am not seeking to destroy the amendment. I do seek to protect, if I can, the small individuals who are called "crushers" in the State of California and who will be affected by a 30-day limitation. If what they are doing at the present time is such a wrong, then they ought not to be given any grace at all; and the case recurs, as I said in the beginning, merely to whether we shall give them 30 days' grace or 60 days' grace. They are given 30 days by this bill, and it will do no living soul any harm to accord them the privilege of having 60 days' grace within which to clean up.

Mr. McADOO. Mr. President, I should like to say a word in support of the amendment proposed by my distinguished colleague from California. I cannot see any harm whatever in allowing the 60 days' grace provision to go to conference. If any irremediable injury is going to be done to the Government by giving processors in California an opportunity to protect themselves in a reasonable way, then the amendment can be altered in conference. I earnestly hope that the amendment will not be stricken out and that it may be permitted to go to conference.

Mr. LA FOLLETTE. Mr. President, I shall make one brief statement in reply to the argument of the junior Senator from California. It will not be possible to cut this period down in conference. The action that the Senate takes now is the determinant action on the whole proposition.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California [Mr. JOHNSON] to the committee amendment. [Putting the question.] The ayes seem to have it.

Mr. LA FOLLETTE. I ask for a division.

On a division Mr. JOHNSON's amendment to the committee amendment was agreed to.

The amendment as amended was agreed to.

Mr. CAPPER. Mr. President, I offer an amendment, which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. At the end of title IV it is proposed to insert the following:

TITLE V—EXCISE TAXES

SEC. 701. TAX ON TAPIOCA, SAGO, AND CASAVA.

The Revenue Act of 1934, as amended, is amended by adding after section 611 the following new section:

"SEC. 611½. TAX ON TAPIOCA, SAGO, AND CASAVA.

"There is hereby imposed upon the first domestic processing or use of sago, sago crude, and sago flour, tapioca, tapioca flour, and casava, whether or not such products or any of them have been refined, modified, or otherwise processed, and in whatever combination or mixtures containing a substantial quantity of any one or more of such products, a tax of 2½ cents per pound, to be paid by the processor or user thereof in manufacturing or processing. For the purposes of this section the term 'first domestic processing' shall mean the first use in the United States, in the manufacture or production of an article intended for sale, of the article with respect to which the tax is imposed. The tax on the article described in this paragraph shall apply only with respect to such articles imported after the date of the enactment of this paragraph and shall not be subject to the provisions of subsection (b) (4) of section 601 of the Revenue Act of 1932, as amended (prohibiting draw-back), or section 629 of such act (relating to expiration of taxes)."

Mr. CAPPER. Mr. President, the amendment offered by me would impose an excise tax of 2½ cents a pound on the first domestic processing of sago, tapioca, and cassava flour.

These products—now on the free list—compete directly with starches produced from American corn, wheat, rice, white and sweet potatoes. These imported starches have taken over not only a great part of the previously developed business but are constantly absorbing a large part of the new business developed by the research departments of the domestic starch industry. This is evidenced by the following table, which gives the average annual imports, by 10-year periods, since the year 1905:

From 1905 to 1914, inclusive, 44,000,000 pounds.

From 1915 to 1924, inclusive, 90,835,000 pounds.

From 1925 to 1934, inclusive, 150,304,000 pounds.

In 1935 the imports amounted to 226,986,000 pounds; in the first 3 months of 1936, 77,711,000 pounds, or at the rate of 310,000,000 pounds per annum.

More than 80 percent of these starches are used industrially and displace starches produced from domestically grown agricultural products.

By virtue of this diversion from domestically produced starches to these imported starches many potato-starch mills have been closed, and a surplus of over 20,000,000 pounds of potato starch now remains unsold. At the same time the cornstarch manufacturers have been obliged to curtail their operations, with the result that in 1935 their purchases of corn were many million bushels less than in 1934.

I say that, in all fairness, the American farmer is entitled to the American market in the case of all commodities which can be grown to advantage on the farms of this country.

The imports of these foreign starches are increasing so rapidly from year to year because the price of corn in this country and the price of American labor and all materials used in the manufacture of starch result in a cost far above the cost of these Asiatic starches, which are produced in tropical countries and handled and converted with coolie labor who receive between 25 and 30 cents a day—long hours—as against a wage of 50 cents an hour in the starch-refining plants of this country; the policy of our Government results in a price level for the farmers' products at a figure which makes it entirely impossible to make these domestic starches cheap enough to compete with the Asiatic starches. It seems inconsistent to pay money to take starch-producing products out of production at around $10 an acre and then let these competing products come in duty free and take the market away from manufacturers who are buying and converting the American products.

The starch-refining industry must have its raw products hauled into the plants, which means heavy freight charges;

the finished starch products are transported to the industrial centers, again supplying considerable revenue to the railroads. The starch-refining industry has used over a million and a half tons of coal annually, which means large revenue from the railroads, as well as to the miners employed in mining that quantity of coal. The decline in business already occasioned by these imports has resulted in the industry decreasing purchases of coal 150,000 tons during each of the past 2 years, which was a loss of revenue to the miners and the railroads. There was a great loss of revenue to the railroads owing to the corn that was not bought and transported on account of the diversion of business to these foreign starches.

If the rate of import is maintained for the next three-quarters of 1936 at the rate of imports for the first quarter, we will have imported 310,000,000 pounds of these starches, which is equal to the corn starch produced from the corn grown on 400,000 acres of corn land, or 12,400,000 bushels of corn. If this starch were made from potatoes, it would take all the potatoes in several of the States. There are potato-starch plants closed in this country which should be operating and furnishing a market to farmers in the neighborhood. Owing to these free imports, there are 20,000,000 pounds of American potato starch now in storage in warehouses—while the market is being taken over by these imported starches.

I have a letter from the American Farm Bureau Federation, reading as follows:

WASHINGTON, D. C., *May 25, 1936.*

MY DEAR SENATOR CAPPER: At this time, when additional revenues are so greatly needed for proper conduct of the Government, the American Farm Bureau Federation urges the adoption of an excise-tax program on agricultural products enjoying entry into the United States, which compete effectively with American-grown agricultural products.

Products being imported, from which substantial revenues can be obtained, are tropical starches, such as tapioca and its processed forms, and sago flour and sago starch.

Importations of these commodities have been increasing annually in the last 5 years, notwithstanding relatively low prices for domestically produced starches made from corn, wheat, rice, and potatoes grown by American farmers.

The American Farm Bureau Federation has recognized the situation in each of the last 3 years, when, at each of its annual conventions, it has passed resolutions urging an excise tax on tropically produced starches.

We therefore urge the Senate Finance Committee and the Senate to include in the pending tax measure, H. R. 12395, adequate excise taxes on tropical starches.

Respectfully yours,

AMERICAN FARM BUREAU FEDERATION,
CHESTER H. GRAY,
Washington Representative.

Mr. KING. Mr. President, the Senator from Kansas [Mr. CAPPER] is a member of the committee. His amendment was presented to and carefully considered by the committee and rejected. I ask that the amendment be rejected by the Senate.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Kansas.

The amendment was rejected.

Mr. PITTMAN. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 241, in section 401, after line 5, it is proposed to insert a new paragraph, as follows:

(b) Section 105 (f) of such act is amended by striking out the words in the first parentheses in the first sentence thereof and inserting in lieu thereof the following: "Which declaration of value may be amended biennially thereafter;".

And in line 6, to strike out "(b)" and insert "(c)".

Mr. PITTMAN. Mr. President, under the capital-stock-tax act which took effect in 1933, a corporation was allowed to fix the value of its capital stock upon which it would be called upon to pay a tax. The theory was that it would give the actual value because that would be the logical thing to do. It is perfectly evident that when the act expressly provided "which declaration of value cannot be amended", the facts with regard to the corporation could not be obtained.

For instance, a new company starts in business. It has nothing but its physical property. At that time it values its physical property. In 2 years' time, if it has succeeded in its business and its earnings have grown, the value of the physical property is entitled to earn more than the amount then fixed.

Let us take a new company with which I am familiar and with which Senators from California and Wyoming are familiar. A new oil company is organized and begins business.

It has nothing except a lease on a piece of ground owned by the Government of the United States. It has that lease and that is all it has. The value of that is $100,000, we will say. If it never strikes oil, that is all it has. If, on the other hand, it should strike oil the production would probably be anywhere from $100,000 to $1,000,000 a year. The capital stock of the company would be greatly enhanced in value, and yet if they could not amend that return they would have to hold that valuation at $100,000 when they would be earning $100,000 a year legitimately. Therefore, they would have to pay an enormous excess-profits tax by reason of the first valuation placed on the property.

That occurs more or less with regard to every new company that starts in business. A textile company starts in business. It has nothing except its physical property. However, it expects to do a big business. If it does a large business, then the original estimate of the value of the property is wrong and should be increased in accordance with its earning power. To say that when a new company starts, before it really has anything of value, it must fix its value and then when it establishes a real value by reason of its business success it shall not be allowed to state truthfully that value for the purpose of taxation seems to be not only an absurdity but absolutely unreasonable and unjust.

Mr. BARKLEY. Mr. President, may I inquire of the Senator from Utah, inasmuch as the House bill repeals completely the capital-stock tax, whether or not the whole subject would be in conference regardless of the amendment going into the bill at this time?

Mr. KING. Mr. President, there is some doubt as to whether it would be in conference. But I am constrained to the view that no technical rule would be invoked and that the matter might be fully considered.

Mr. BARKLEY. Why not? The section was repealed by the House.

Mr. KING. The bill as it passed the House would repeal the capital-stock provisions, but the corporations would have an opportunity to make another declaration of value for taxation purposes.

Mr. BARKLEY. The bill as it passed the House repealed it, and the bill as reported by the Senate committee keeps the provision in the bill, so it would be in conference.

Mr. LA FOLLETTE. Mr. President, the point I should like to make is that the Senate should not pass upon the amendment on the theory that the conferees will have an opportunity to study it. The bill as it passed the House repeals, after 1 year, the capital-stock and excess-profits tax and provides it shall operate at only 50 percent of the existing rate. The bill as reported by the Senate Finance Committee, in order to obtain revenue, provides for a continuation of the capital-stock and excess-profits tax at the full rate, and indefinitely. Therefore, if the amendment offered by the Senator from Nevada should prevail, the conferees would be in a situation where they would not be able to consider anything more drastic than the Senate has provided in its provision for continuation of the capital-stock and excess-profits tax.

The capital-stock and excess-profits tax is predicated upon the theory that one tax will operate so as to enforce the other. In my opinion, if the amendment proposed by the Senator from Nevada should become law—and in my opinion it would become law if adopted by the Senate, because the conferees would have no discretion in the matter—we may kiss good-bye to the revenue from capital-stock and excess-profits taxes because what is proposed is to give every corporation a chance to guess against the Government every 2 years.

Mr. PITTMAN. Mr. President, in the first place, I very seriously doubt whether the return from the capital-stock tax will be in conference on the present bill. The question would be, between the two, as to whether it should extend a year or whether it should extend longer than a year. That would be the only question in conference, because that is the only difference between the two bills with regard to the capital-stock tax. Therefore, if the Senate desires to ascertain, for the purpose of taxation, the actual value, as near as may be, of the capital-stock tax, this is the only way in which it can do so. To say that we are going to place a tax of so much on each thousand dollars' worth of capital stock of a corporation, and then say that we are not going to try to ascertain that fact, to me seems dishonest.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. PITTMAN. Pardon me for just a second.

The Senator from Wisconsin, of course, is correct in his statement. It was intended, by having the excess-profits tax, to force the corporation to give at least a reasonable valuation to its capital stock, and the theory was that every corporation would be induced to give a reasonable valuation to its capital stock. That is what we are trying to find out, and that is the fact; but in the case of a new company that is starting out, the stock of the company may have value, or it may not have value. When a stock is listed the public determine for themselves its value. If the enterprise is entirely speculative the stock has a speculative value, and it continues to have a speculative value until it has an investment value, which is proven by its return.

Assume that a company goes out as an exploration company. It has only $100,000 of capital. That is all it is worth; but in a period of 2 years' time it develops a company that is worth a million dollars. At the start it has been said that the company is worth only $100,000; and although in 2 years it becomes worth a million dollars, under the proposal here that fact may not be established before the collector of internal revenue, but the company will have to go on forever paying excess-profits taxes because it has underestimated the value of its capital stock.

There is not an exploration company in the world that can exist under this provision. An exploration could not be started for oil, for copper, for lead, for zinc, for any metal on earth, and succeed under that provision. No company that starts an exploration has anything to start with except its machinery. If it never discovers the things for which it is exploring, the value of the capital stock is very small; but if it makes its discovery, it gives a value to the capital stock by the very work it is doing and the work it intends to do. This provision would penalize such a company for a discovery. It would penalize it for becoming a successful company by saying to it, "You are bound by your $100,000 valuation, although the corporation is worth a million dollars, and you will pay a tax on all the excess profits over $100,000." That is an absolutely unjust thing.

Mr. LA FOLLETTE. Mr. President, just one word. The statements I have made were not made without consulting the experts; and I say that the Senate ought to hesitate before it jeopardizes $160,000,000 of revenue that is estimated for this year to be derived from the capital-stock and excess-profits tax.

So far as the oil and gas and mining companies are concerned, we give them the most generous kind of treatment in the income-tax law. We allow them percentage depletion and discovery allowances; and there are many companies in the country which have taken advantage of those provisions, and have depleted again and again, and have avoided paying taxes upon their net income after they have had an opportunity to recapture their original capital outlay.

I have no doubt the Senator from Nevada has just cases in mind, but I appeal to the Senate to recognize that when we are passing a tax bill it is impossible to take care of every hardship case, and some consideration must be given to the revenue of the Government. We cannot afford to jeopardize it.

I hesitate very much to argue with the Senator from Nevada about the parliamentary situation, but I am advised that in view of the fact that the House conferees have proposed a repeal of the tax at the end of 1 year, and the Senate has proposed to continue it, the House conferees are in a position where they cannot consider the particular amendment offered by the Senator from Nevada, and that it will be a question of accepting the Senate committee amendment as adopted by the Senate or of not accepting it at all.

Therefore, despite the fact that everything that is said may appeal to the Senate, in view of the fact that $160,000,000 of revenue for this taxable year is involved, I think the Senate should hesitate before it jeopardizes any opportunity to collect that amount.

Mr. HASTINGS. Mr. President, has the Senator any idea how much of the $160,000,000 would be lost by the adoption of the amendment?

Mr. LA FOLLETTE. No; I cannot answer that question It is 5 minutes after 7. There is no opportunity to get any estimate from the actuaries of the Treasury. The experts here upon the floor have no desire to affect policy in any way at all. That is a question for the committee, for the Senate, and for the Congress to decide. These gentlemen have been very circumspect in any attempt to influence policy; but I do wish to present to the Senate, before it votes upon the amendment, their apprehension that it will jeopardize the collection of the tax.

Mr. HASTINGS. Mr. President, I simply do not wish to have the impression prevail that we are likely to lose $160,000,000 by the adoption of this amendment.

Mr. LA FOLLETTE. Oh, I did not mean to leave that impression. I meant to say that that is the estimated revenue, and that I have been advised that there will be substantial losses from it if this amendment shall prevail.

Mr. HASTINGS. The Senator suggested that we would jeopardize $160,000,000 of revenue.

Mr. LA FOLLETTE. I may have made that statement, Mr. President; but the point I tried to make was that a return of $160,000,000 is estimated for this tax, and that there is grave apprehension on the part of those I have consulted, who know more about this provision than I do, that the amendment will result in very substantial diminution of the revenue received from the capital-stock and excess-profits tax. Therefore, I hope the Senate will pause before it acts on the amendment, because, as a matter of fact, the bill now falls short of producing the revenue which was requested by the President in his message.

Mr. PITTMAN obtained the floor.

Mr. BONE. Mr. President, may I ask the Senator a question?

Mr. PITTMAN. I yield to the Senator from Washington.

Mr. BONE. In view of the statement of the Senator from Wisconsin [Mr. LA FOLLETTE], I am wondering, in the event the adoption of the amendment offered by the Senator from Nevada is accomplished, whether it might not be wise to do something in the way of making it impossible for these companies to claim over and over and over and over again what amounts to several times their capital taken up in the form of depletion. It seems to me that should have been taken care of years ago. A company should not be permitted to write itself off time after time and still keep claiming that sort of thing.

Mr. LA FOLLETTE. Mr. President, if the Senator from Nevada will yield to me——

Mr. PITTMAN. Yes.

Mr. LA FOLLETTE. I desire to say that this matter of percentage depletion is a very complicated problem, and certainly could not be settled on the floor of the Senate at this late hour; but I pointed that out simply as an indication that the policy of the Government has been very generous toward those who are operating in what I admit to be a hazardous field of enterprise—namely, exploring for oil, gas, and minerals.

Mr. PITTMAN. No, Mr. President; the Government has not been very generous. The experts have been intelligent in a few matters, and that is one of them. When the copper is taken out of a mine, there is not anything left. When

water is taken out of a stream, it flows back; but the depletion of an oil well or a copper mine or a lead mine is complete, and none of them last over about 10 years.

Mr. LA FOLLETTE. I did not know that this matter was coming up, since it was not touched in the bill; but I should be very glad to furnish the Senator with 13 examples which have been given to me of companies which have taken out their original capital investment time and time again, and are not today paying taxes on their statutory net income, because they continue to take out their capital investment.

Mr. PITTMAN. That has not anything to do with this amendment.

Mr. LA FOLLETTE. It has something to do, if the Senator will pardon me, with the generous treatment which Congress and the Government have extended to those who are operating in these hazardous fields.

Mr. PITTMAN. I think the expression "generous treatment" with regard to taxes is not an accurate one. There never was any generous treatment with regard to taxes; so let us drop the idea of generous treatment.

Senators stand here and tell us that we have no right to consider a question before this body because some tax experts have told them so-and-so, and so-and-so. I think one of the curses of the way measures are passed through this body is the fact that we do not think for ourselves but constantly whirl around and ask what some tax expert thinks, or what some other kind of expert thinks. When we are dealing with a common-sense proposal, at least we do not have to consult some tax expert, who generally has not any common sense.

What we are dealing with in connection with this matter is that there is a law which we passed 2 years ago which provided a tax of so much on every thousand dollars of the capital-stock value of companies. We are supposed to know what the capital-stock value is. We are supposed to ascertain that value for the purpose of taxation. We leave it to the company itself, because if they report an undervaluation we recover what we would lose in excess-profits taxes.

The idea of the experts is that the actual value of a company having been given today, when its value increases in 2 years, they will not let them give the actual value, because they wish to have the Government collect the excess-profits tax not on the actual value of the stock but to collect it on the original value before it attained its new value.

The proposition of having a committee constantly attempt to howl down a Senator on this floor because he is not a member of the committee, and then to base that howl on the constant claim that some tax expert has said so-and-so, does not appeal to me. We do not know the facts ourselves; we do not know a thing on God's earth about it; we do not know how much loss there will be or whether there will be any loss; but the tax expert says so-and-so.

Mr. LA FOLLETTE. Mr. President, I am sorry that in this connection I brought in the tax experts to have them castigated by the Senator from Nevada. I have been on the Committee on Finance during four general revisions of the revenue laws, and have participated in their deliberations, and at this time I desire to pay tribute to the service rendered by the experts of the joint committee and of the Treasury in connection with those measures, and to state that, despite the study I have been able to give to the complex problems involved in the bills, I am still ready to acknowledge that there are a great many people who know more about the subject of taxation than I do, and the more I see of the way in which the Senate handles these matters the more I wish that we could have expert advice instead of having measures chucked out on the floor and passed on without proper consideration.

Mr. COUZENS. Mr. President, I desire to join with the Senator from Wisconsin in resenting the imputations against these so-called tax experts. There would be no legislation if it were not for the services of these men, who are constantly on the job, studying the questions presented to us.

No man should be permitted to come here and plead special privilege for some particular client without having a committee of Congress analyze the facts. This matter was never discussed in the committee. A single Senator comes on the floor pleading for a special interest, and we are supposed to jump through the hoop.

Mr. PITTMAN. Mr. President, for what special interest does the Senator charge the Senator from Nevada is pleading?

Mr. COUZENS. The interest the Senator has disclosed in the record, and I am only talking from the record.

Mr. PITTMAN. I represent no special interest.

Mr. COUZENS. The Senator's own argument, the defense of his amendment, speaks for itself.

Mr. PITTMAN. I resent the Senator attempting to place a construction on what I have said to the effect that it is plain that on this floor I am representing any special interest.

Mr. COUZENS. When a Senator rises and pleads for an amendment for a particular class of taxpayers, he certainly is pleading for that particular special interest.

Mr. PITTMAN. If the Senator holds that when the Senator from Nevada is pleading for new companies, no matter in what business they are engaged, and gives an example of various kinds of new companies whose value cannot be determined at the start, then I am willing for him to use the language he has employed, offensive as he intends it to be.

Mr. COUZENS. I had no intention of being offensive. I say that the Senator's own speech in pleading for the amendment speaks for itself and that is all I am making reference to.

Mr. President, what I particularly resent is having an intricate question like this brought up on the floor of the Senate at this hour of the night without it ever having been considered by any committee of the Senate. I do not know now why it was not presented to the committee for consideration, instead of the Senator coming here at the last hour and presenting an amendment, which undoubtedly has appeal, as all of these proposed amendments have appeal. But that does not justify the Senate, without any knowledge whatsoever of the facts, adopting such a broad amendment as this without consideration of its effect upon the Treasury's revenues, or without any information as to its effect upon the corporations.

Mr. PITTMAN. Mr. President, I am informed that several representatives, in testifying before the committee, urged the adoption of the amendment. Not being a member of the committee personally, I know nothing about it. I am satisfied, however, that members of the committee have discussed this proposed amendment before today. I do not know why they discussed it, or who brought it to their attention, but I am satisfied it has been discussed by members of the committee before today.

Not being a member of the committee, I did not present the amendment. As a matter of fact, I was never requested to present it. It came to my attention from the hearings before the committee that this amendment had been presented, and I think it is a sound proposal.

I do not think there will be any great loss of revenue as a result of the amendment. I think the result will be to force new companies, which hope to succeed, to pay a tax on an overvaluation, so that, if they do succeed, they will not pay an extra tax in the form of an excess-profits tax.

Mr. COUZENS. Mr. President, will the Senator yield?

Mr. PITTMAN. I yield.

Mr. COUZENS. Obviously the taxpayer is going to be allowed, in connection with this amendment, to fix his own schedules. In other words, wherever it is to his advantage to raise his capital-stock tax up or down he is going to do it so as to be able to regulate the extent to which he pays excess-profits taxes.

Mr. PITTMAN. That is now the law.

Mr. COUZENS. Yes; but he cannot keep changing from time to time. When he supplies the information he supplies it, and he abides by his judgment at the time. Whenever he finds the opportunity, under this amendment, to circumvent the Treasury he can change his return so as to fix his capital-stock tax as he desires.

Mr. PITTMAN. Under existing law he has been allowed a certain time in which to amend his valuation. I think that time extends to July.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. PITTMAN. I yield.

Mr. CONNALLY. I may suggest to the Senator from Nevada that these two taxes work somewhat concurrently. In other words, the corporation pays a capital-stock tax. If it puts the value too high, it will pay a great deal higher capital-stock tax.

On the other hand, we passed an excess-profits tax. If the corporation has a different basis of valuation, it pays that tax. So the corporation was given the privilege in the present law of fixing its own capital value on the theory that the gain or the loss would probably offset each other, and allow the corporation to fix its own basis of taxation. The corporations have had that advantage under the present law. Under the Senator's amendment they would be enabled to change their basis and readjust it in such a fashion as to take advantage of any ameliorating circumstances in the way of lowering the tax.

Mr. COUZENS. Mr. President, will the Senator yield?

Mr. PITTMAN. I yield.

Mr. COUZENS. The Senator from Texas knows human nature quite well, because through his great personality and influence he has now secured in the bill a nefarious amendment to protect certain oil investments. The Senator from Texas knows human nature well enough to know that a corporation is going to regulate its capital-stock basis up or down so as to pay no more tax than can be helped.

Mr. CONNALLY. Mr. President, the Senator from Michigan misunderstood me. I was endeavoring to support the position taken by the Senator from Michigan, and agree with him in his views. I must apologize to the Senator for being so obtuse as not to be able to make my meaning clear.

Mr. COUZENS. I desire to plead dumbness for not understanding.

Mr. PITTMAN. I will admit it on both sides and go on.

Mr. CONNALLY. I shall reserve for a later time reply to the remarks of the Senator from Michigan with reference to my having inserted a certain provision in the bill, and wish to say that the Senator from Texas is not the Committee on Finance. The committee inserted whatever is in the bill. With all due apology, I beg to remind the Senate that the Senator from Michigan is a very influential and very powerful member of that committee.

Mr. COUZENS. Mr. President, will the Senator again yield?

Mr. PITTMAN. I yield.

Mr. COUZENS. I simply desire to point out that the Finance Committee overwhelmingly defeated the amendment of the Senator from Texas at one time, but the members of the committee fell for his pleading and smiles and eloquence and reversed themselves.

Mr. KING. Mr. President, will the Senator yield?

Mr. PITTMAN. I yield.

Mr. KING. My recollection is imperfect as to the discussion which took place in the committee concerning mining properties. A number of witnesses appeared and presented in a very comprehensive manner the problems involved in the development of mines and the hazards incident to mining operations. They made a number of suggestions for legislation, and my recollection is that among them was one indicating the importance of amending the law so that capital-stock valuations might be changed from time to time as conditions justified.

I recall that informally some of the members of the committee, as well as some of the experts, took the view that under the law revaluation might be made during this year, and that it was quite likely that before another revenue year should have elapsed further tax legislation would be enacted, and the whole question could then be investigated, with a view to granting such relief as would be fair and just not only to those engaged in mining operations but to the Government itself.

I am sure the members of the committee appreciated some of the problems and hazards incident to the development of the mining resources of our country; and, speaking for myself, I have no doubt that when the next revenue law is enacted—which I feel sure will be in 1937—ample provision will be made to meet the just demands of those engaged in the mining industry.

Mr. PITTMAN. Mr. President, I believe the Senator from Texas has stated the purpose of the amendment, which is that there shall be a self-balancing of the tax basis; that if the capital-stock tax is too low then the excess-profits tax will be collected, and vice versa. That is all true. I think it is not his conclusion, however, that one valuation having been fixed there should never be another valuation fixed, whether the actual value of the property is changed or not.

Mr. CONNALLY. Mr. President, will the Senator yield?

I think it was an unwise provision and I did not agree to that method. However, since that method was adopted and the corporation has received the benefit of it, I do not favor now changing it in a hurried and unstudied manner. If the general excess-profits tax is to be revised I shall be glad to give consideration to it. I thought it was unwise in the first place. To me the invested capital basis tax represented sounder doctrine.

Mr. PITTMAN. Mr. President, the act itself provided a period of time—I think 2 years' time—in which to amend it. That was probably satisfactory as to great and old-established companies which we have in mind. Let us assume, however, that a company is organized today and it is told, "On organizing your new company you must establish the value of your capital stock for the purpose of taxation." I say it is physically impossible for a new company which is just starting out actually to fix its capital-stock value, and such a new company should be given a period of 2 years, or some period after starting, in which to determine the facts upon which to base the tax on capital stock. If the amendment were to go to the conference, then the conferees would have something which they could change in any form they wanted to. They could provide a period of 2 years after the organization of a new company in which the company could determine what the actual value of its property was.

Mr. GEORGE. Mr. President, I think there is very much in what the Senator from Nevada has had to say upon this question. However, early in the deliberations of the Finance Committee I felt I was old enough to make the suggestion that the fair way of arriving at the value of capital investment was to multiply the ascertained net income under the income-tax law applicable to corporations by 8 or 10 or 12, or any other arbitrary amount the committee wished to fix. That is exactly what a corporation undertakes to do. If a corporation earns $100,000, and it were then privileged to fix the value of its capital assets, it would multiply its earnings by 8 or 10 or 12 and say that its capital investment was worth a million dollars.

The Treasury officials pointed out, however, that in times of prosperity earnings might be relatively large and that the capital-stock tax, based upon the values fixed upon the basis I suggested, would be rather heavy. But in times of depression, when the corporation was making no real profit, the Government would not get any money from a capital-stock tax. Of course, I was compelled to recognize the statement as being in large measure true. It is just one of those unfortunate situations that exist.

I repeat, there is much in what the Senator from Nevada says, because in the case of a new corporation starting out upon a rather venturesome program the capital fixed is not what it actually is, but what those who engage in the interprise hope it will be. If they happen to fix irrevocably the capital stock or capital invested, and have no privilege of revaluing, they may be caught with very high excess profits when, as a matter of fact, their investment may have increased in value.

I believe it to be eminently fair and just that the annual earnings of a corporation should be multiplied, say, by 10

or 12½, and the capital-stock tax automatically fixed in that way so that there will be no guessing on the part of those charged with the management of the corporation, and the Government would get a capital-stock tax on that basis.

I recognize, however, that in times of great depression or in times of great leanness, when the corporation did not make any earnings, then its capital-stock tax would be greatly reduced and could indeed pass out of the picture. However, it seems to me that there might be fixed some minimum of value, either on the basis of original investment or what not, and then the capital stock fixed in some proportion to the annual net taxable earnings of the corporation.

I may say to the Senator from Nevada that, if I rightly interpret the situation, the bill as it passed the House would repeal the capital-stock tax and the bill as reported by the Senate Finance Committee would reenact the capital-stock tax, so it seems to me that the whole matter would be open for conference, and the conferees might have a free hand to arrive at some fair basis of settling the particular controversy if no amendment were adopted.

I may say also that while, of course, we have come probably to a change in our national policy with reference to corporations, nevertheless the problem presented by the Senator from Nevada is not so important if one is dealing with one corporation, but in the case of a series of corporate enterprises or a number of corporations which are interlinked or affiliated under one management, where one management is responsible for fixing the value or valuing the investments in half a dozen or a dozen corporations if they are legitimate—and if they are not legitimate structures a different question would be involved—when those values have become fixed and have become irrevocable for a series of corporations, which are the result of a normal expansion of business on the lines along which we have allowed it to develop in this country, then we have a very acute problem, and what the Senator from Nevada points out is entitled to very grave consideration.

Of course I should like to get through with the tax bill, but while on that very point I desire to make this statement. I am not sure whether or not our business in America ought to be conducted under the corporate form. I am not sure but that a corporation with immense power, with immense holdings, may not be an evil as well as a benefit. That is not the question, it seems to me. If we are going to continue the corporate form of business—and we do most of our business under the corporate form—then these problems are coming back and back and back again for consideration and reconsideration year after year.

There is much justice and much good common sense and plain fairness in the suggestion made by the Senator from Nevada. On that very point the question whether or not under a pressure tax we are to force out corporate earnings and place them in the hands of the individual stockholders comes at last to our own conclusion as to whether business in America shall be carried on under the corporate form or whether the Congress has upon it the higher prerogative of determining a sound policy for the Nation.

It seems to me, if the Senator from Nevada will permit me to make this brief suggestion, that as the bill stands, as passed by the House and as reported by the Finance Committee, there is freedom on the part of the conferees to consider the suggestion which he makes and which I believe has in it a great deal of merit.

Mr. COUZENS. Mr. President, I do not object to the fixing of the capital-stock declaration based on a percentage such as the Senator from Georgia [Mr. GEORGE] has suggested, or on the basis of earnings, but when we leave it wide open in accordance with the amendment proposed by the Senator from Nevada, whenever the taxpayer finds he has his capital-stock declaration too low, and is paying more in excess-profits taxes than he thinks he ought to, he would be able to fix his own tax.

In that connection I point out that the excess-profits taxes may be a great deal higher than the capital-stock tax. He then elects to increase the capital-stock tax so as to pay a very small rate on capital stock and thereby save a great deal of money. The next year comes along and he says, "I have this too high. I am not going to have much excess-profits tax this year, because I am not going to have any excess profits, so I will reduce my capital-stock tax to secure a lower rate."

If we had a standard such as suggested by the Senator from Georgia [Mr. GEORGE], it might be applicable, but under the amendment submitted by the Senator from Nevada it seems to me it is left wide open for any taxpayer to fix his own tax.

Mr. KING. Mr. President, I feel that in justice to what has been said respecting the presentation of this matter to the committee I should refer to the hearings, in which I find this, among other statements:

> In the same connection we strongly urge the repeal of the capital-stock and excess-profits tax, particularly because a fair application of the law to the mining industry is almost impossible unless provision be made for the periodical revision of the declared value.

Suggestions were made by a number of persons who came before the committee that there should be an opportunity for a new declaration of value. Upon further reflection, I am inclined to believe that the conferees will have power to provide for revaluation so that the results sought by the Senator from Nevada may be accomplished.

Personally I believe there should be a modification of existing law in the matter of revaluation. The mining industry is to be differentiated from most other industries. Ore deposits are exhausted, mines are depleted, and values of mining properties are variable, as a result of which an opportunity should be afforded for redeclaring value where the capital-stock plan of taxation prevails.

Mr. PITTMAN. Mr. President, I wish to modify my amendment. I send the modified amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The amendment as modified will be read.

The CHIEF CLERK. On page 241, in section 401, after line 5, it is proposed to insert a new paragraph, as follows:

> (b) Section 105 (f) of such act is amended by striking out the words in the first parenthesis in the first sentence thereof and inserting in lieu thereof the following: "which declaration of value may be amended within the period of 3 years after incorporation of a new corporation."

The PRESIDING OFFICER. The question is on the amendment of the Senator from Nevada as modified.

The amendment was rejected.

Mr. McNARY. Mr. President, my colleague the junior Senator from Oregon [Mr. STEIWER] was called from the Chamber on important public matters. At his request and in his behalf I submit the amendment which I send to the desk and ask that it may be stated.

The CHIEF CLERK. On page 272, between lines 12 and 13, it is proposed to insert a new section, as follows:

> SEC. 812. TAX ON LUMBER.
>
> Effective on and after the date of enactment of this act, section 601 (c) (6) of the Revenue Act of 1932, as amended, is amended by adding at the end thereof the following:
>
> "For the purposes of this paragraph, lumber is defined as the product of the sawmill not further manufactured than by sawing, resawing, or passing lengthwise through a standard planing machine, crosscut to length and matched. The board measurement of dressed lumber shall be based upon the corresponding nominal dimensions of rough green lumber."

Mr. McNARY. Mr. President, this amendment in nowise contravenes the Revenue Act of 1932, which deals with this problem. Recently, in some of the Government agencies, different views have been taken with respect to the definition of the term "lumber." In order to remove that doubt which exists about the definition of the term, and to make the term accurate in its meaning, I have proposed, in behalf of my colleague, the amendment which has just been read. It does not in any way affect the duty or the revenue derived from the item under the Revenue Act of 1932. It is simply clarifying language, and I sincerely hope the Senator from Utah [Mr. KING], who is in charge of the bill, will take it to conference in order that the conferees may work out some language appropriate to meet the situation I have briefly described.

Mr. KING. Mr. President, I will say in response to the plea of my friend that his colleague [Mr. STEIWER] came before the committee and presented the substance of the amendment. My recollection is that the committee voted against the amendment on the suggestion of the Senator.

Mr. McNARY. Mr. President, I understood that my colleague did not present the amendment to the committee; that he made a statement, but did not propose the language. At the present time the amendment has been reduced to definite language. I am not familiar with the history of the matter; but for the reason that my colleague did not actually present his amendment, but made a statement, I should like to have the Senator take the language into conference and work out some language that may be an improvement.

Mr. BARKLEY. Mr. President, it is true that the Senator from Oregon [Mr. STEIWER] came before the committee and requested that the change be made, but he did not himself present an amendment in language. I have no objection to the amendment.

Mr. KING. Very well, Mr. President; the amendment may go to conference.

Mr. NORRIS. Mr. President, before the amendment is agreed to——

Mr. KING. I shall withdraw consent until I hear from my friend from Nebraska.

Mr. NORRIS. We have established the precedent this afternoon that if we wish to get a matter into conference the way to do so is to keep it out of the bill. In order to save the conferees a lot of trouble, I call attention to the fact that now the Senator in charge of the bill proposes to get something into conference by putting it in the bill. [Laughter.]

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Oregon [Mr. McNARY] in behalf of his colleague [Mr. STEIWER].

The amendment was agreed to.

Mr. SHIPSTEAD. Mr. President, I ask the Senator from Kentucky whether all the committee amendments have been presented and disposed of?

Mr. BARKLEY. No; I have two or three more.

Mr. SHIPSTEAD. I have an amendment to offer; but, as I understand, the committee wishes to finish presenting its amendments before other amendments are offered.

Mr. BARKLEY. It is desirable, but not absolutely necessary, that that be done.

Mr. SHIPSTEAD. Then I shall offer mine now, because I wish to get it before the Senate. I shall be as brief as possible.

I have an amendment on the table which I ask to have read.

The PRESIDING OFFICER. The amendment offered by the Senator from Minnesota will be stated.

The CHIEF CLERK. At the proper place in the bill it is proposed to insert the following:

SEC. —. Section 5219 of the Revised Statutes is amended to read as follows:

"SEC. 5219. The legislature of each State may determine and direct the manner and place of taxing national banking associations located within its limits upon their real and tangible personal property and also upon their shares: *Provided*, That in lieu of such tax upon the shares, the legislature may impose either a tax upon the net income of such associations or an excise tax measured by net income received by them from all sources: *Provided further*, That such taxation shall not be at greater rates than are imposed, respectively, upon the real and tangible personal property or shares or income of, or by way of excise (or franchise) tax upon State banks: *And provided further*, That a State which imposes a tax on the net income of individuals or corporations, or an excise or a franchise tax on corporations measured by their net income, may also include in such income of individuals or corporations the dividends from national banking associations located in the State, but only if dividends from the State banks of such State are similarly included; and may also tax dividends from such associations located without the State, but in such case at no higher rate than is imposed on the dividends from foreign corporations. As herein used, the words 'State banks' shall mean and include all persons and corporations engaged primarily in the business of commercial banking; and the word 'shares' in its application to individuals engaged primarily in the business of commercial banking shall mean the capital and surplus of such business, and the word 'dividends' shall in such case mean the distributed profits therefrom."

Mr. SHIPSTEAD. Mr. President, in spite of the fact that this amendment is very important to half or all of the States of the Union, I shall be very brief. I should not bring the amendment here at all at this hour, or offer it to this bill, were it not for the fact that in the various States a very serious emergency exists in the matter of taxation of national banks, due to an outrageous provision of the Federal law.

The amendment speaks for itself. In short, it provides that the Federal statute shall be amended so that States may tax national banks on the same basis and at the same rate that State banks are taxed in the various States.

This matter has been coming here since 1921 or 1922. To the best of my knowledge, it was first brought to the attention of the Congress by the Senator from California [Mr. JOHNSON]. For several years the Senator from South Dakota [Mr. NORBECK], introduced bills to provide equality or to do away with discrimination against State banks such as now is provided by the Federal law. The matter has never been permitted to come to the floor of the Senate. It has had hearings before the Banking and Currency Committee. All sides have been heard on many occasions, but the discrimination against State banks still exists.

As a matter of fact, in a number of States—I do not know how many, but I understand in at least 16 States from which I have communications here—the tax commissioners are in favor of the enactment of a bill of this character. For instance, in my State—and I think the same thing is true in other States—national banks pay taxes on their real estate only. State banks must pay taxes on their real estate and also on their capital, surplus, and undivided profits.

As a result, in communities where during the depression the relief problem has been so severe as to strain the taxpaying power of the entire community, the national banks have not carried their load.

As a result of this situation, we find that in the United States as a whole, from the time this situation arose in 1922, the capital and surplus of national banks increased 11 percent, but taxes on them decreased an average of 39½ percent. To repeat, in the United States as a whole, the local taxes on national banks have decreased 39½ percent since 1922, while their capital and surplus have increased 11 per cent.

If there is any other form of corporation or industry or business which has had a special privilege from the Federal Government in saving it from carrying its burdens of local taxation, I should like to know what it is.

In showing what the various States that have sent communications on the subject have to say, I shall be very brief.

A communication from Jackson, Miss., signed by A. S. Coody, secretary of the Mississippi State Tax Commission, reads as follows:

MISSISSIPPI STATE TAX COMMISSION,
Jackson, Miss., August 24, 1932.

Hon. GEORGE H. SULLIVAN,
Chairman, Bank Tax Commission,
St. Paul, Minn.

DEAR SENATOR: I have your letter of the 16th with reference to the proposed amendment to section 5219, United States Revised Statutes. This commission agrees with the action taken by your commission. It seems that enough time has been spent in attempting to reach a compromise on this matter.

It seems to me that the matter of discrimination could be disposed of by the simple proviso that national-bank shares could not be taxed to a greater extent than the shares of State banks. States would certainly not overtax State banks. The amendment suggested in item 4 of your letter would likely have the same effect.

With best wishes and regards, * * *

Yours very truly,

A. S. COODY, *Secretary.*

These communications were written to the chairman of the Minnesota Bank Tax Commission, which was organized for the purpose of obtaining relief; and these communications came to that body from the tax commissions of other States.

From the Indiana State Board of Tax Commissioners, Mr. Zoercher writes as follows:

STATE BOARD OF TAX COMMISSIONERS,
Indianapolis, Ind., August 15, 1932.

GEORGE H. SULLIVAN,
Chairman, Bank Tax Commission of Minnesota,
St. Paul, Minn.

MY DEAR MR. SULLIVAN: Yours of recent date received and in reply will say that the members of this board feel that the amendment proposed by the Senate committee at its recent session is the proper way to solve this question of section 5219—that is, other money capital shall be capital engaged in the banking business. As long as national banks are treated the same as State banks and trust companies are treated, they ought to be satisfied. There is no reason for any objection to that provision in the statute.

People are getting disgusted with the fight these high-powered attorneys are making in trying to have the banks not pay any taxes at all. It seems to me that the committee representing the States in the Union ought to meet the objections by a statement that is clean- and clear-cut, without any doubt as to its meaning, and the last Senate amendment is clear- and clean-cut and ought to settle the whole controversy.

Very truly yours,

PHILIP ZOERCHER.

From the State of California I have the following letter signed by Dixwell L. Pierce, secretary of the State board of equalization, at Sacramento:

STATE BOARD OF EQUALIZATION,
Sacramento, Calif., August 16, 1932.

Hon. GEORGE H. SULLIVAN,
Chairman, Bank Tax Commission of Minnesota,
St. Paul, Minn.

DEAR SIR: This is in acknowledgment of your letter of August 12 in which you enumerate the tentative conclusions reached by the members of your commission at a meeting held on August 10.

This board finds itself in agreement as to all of your conclusions. As you know, we have felt for sometime that the compromise bill introduced last April by Mr. STEAGALL as H. R. 11118 would not entirely meet our needs and has not given much promise of passage.

We definitely favor the Norbeck bill and have urged favorable action on it. While we realize that the bankers are strongly represented, we think that through concerted effort on the part of the States we would stand a better chance of getting the Norbeck bill passed than any other that has recently been offered. It does not seem to us that the banks required any further protection than that which is afforded by the fourteenth amendment and that the alleged discrimination has never been proved so far, at least, as California is concerned.

Very truly yours,

DIXWELL L. PIERCE, *Secretary.*

The Norbeck bill, to which Mr. Pierce refers, is to the same effect as the pending amendment.

From the State of South Carolina, Mr. W. G. Query, chairman of the South Carolina Tax Commission, says:

SOUTH CAROLINA TAX COMMISSION,
Columbia, June 1, 1932.

Mr. GEORGE SULLIVAN,
Chairman, Bank Tax Commission of Minnesota,
St. Paul, Minn.

DEAR MR. SULLIVAN: I have your letter of May 26, enclosing report no. 625, in re Senate bill 4291. I have written the South Carolina Senators and expect them to support the bill when taken up for consideration.

W. G. QUERY,
Chairman, South Carolina Tax Commission.

From the State of Montana comes a letter signed by James H. Stewart, from the board of equalization, in which he states:

STATE OF MONTANA,
BOARD OF EQUALIZATION,
Helena, September 1, 1932.

Hon. GEORGE H. SULLIVAN,
Chairman, Bank Tax Commission of Minnesota,
State Capitol, St. Paul, Minn.

MY DEAR SENATOR: Replying to your communication respecting the bank-tax legislation so long under consideration, beg to say that I am confident that with the efforts you are making and with the opportunity you have to give consideration to the matter that whatever conclusion you reach will be the best that could be had under the circumstances.

No fair-minded person could object to the legislation proposed, in that the property of banks should bear no higher rate of taxation than would the property in the hands of individual citizens or corporations other than banks. * * *

With very best personal regards to you and others of our acquaintance working in cooperation with you, I am

Yours sincerely,

JAMES H. STEWART.

John P. Hennessey, tax commissioner of the State of New York, has this to say:

STATE OF NEW YORK,
DEPARTMENT OF TAXATION AND FINANCE,
Albany, September 2, 1932.

Hon. GEORGE H. SULLIVAN,
Chairman, Bank Tax Commission of Minnesota,
State Capitol, St. Paul, Minn.

DEAR SIR: In the absence of Hon. Thomas M. Lynch, president of the Department of Taxation and Finance of New York State, I am replying to your letter of August 26, addressed to Hon. Mark Graves and referred by him to President Lynch.

I have been unable to confer with President Lynch or John J. Merrill, members of the tax commission, to ascertain their views concerning the subject of taxation of national banks, mentioned in your letter.

This matter was carefully considered by the Mastick commission, a local commission reviewing the tax laws of New York State.

I am personally in favor of the recommendation contained in this report, that a State should be authorized to tax the property of national banks to the same extent and in the same manner as it taxes other property and to tax national banks' business to the same extent and in the same manner that it taxes other business and to tax stockholders in national banks to the same extent and in the same manner as it taxes other stockholders. In other words, the authority conferred by section 5219 of the United States Revised Statutes should be broadened somewhat so that it might be exercised in the several States without imposing restrictions and making compliance therewith difficult and subject to possible constitutional objections.

The representatives of New York State at the National Tax Conference, to be held in Columbus, Ohio, September 12–19, will be pleased to attend any suggested conference to consider proposed amendments to section 5219 of the United States Revised Statutes.

Very truly yours,

JOHN P. HENNESSEY,
Tax Commissioner.

From the State of Utah, R. E. Hammond, commissioner of the State tax commission, says:

THE STATE OF UTAH,
STATE TAX COMMISSION,
Salt Lake City, August 25, 1932.

Your letter of August 18, relative to proposed amendments to section 5219, has just come to my attention and I have read it with considerable interest. In answer to your request for my opinion on certain points, I suggest the following:

1. I think it would be advisable to recede from the support of the compromise bill.

2. I agree with you that we should favor and support the Norbeck bill. * * *

With best wishes, I remain,

Yours truly,

R. E. HAMMOND, *Commissioner.*

From the State of Wyoming comes a letter signed by F. Chatterton, chairman of the board of equalization, in which it is stated:

THE STATE OF WYOMING,
BOARD OF EQUALIZATION,
Cheyenne, September 2, 1932.

Replying to your favor of August 19 relative to amending the Norbeck bill for amendment of section 5219, relative to taxation of national banks, I think your suggestion is O. K.

I still think that a simple provision that national banks should not be taxed differently or at a higher rate than State banks are taxed in the respective States would be most satisfactory.

Yours truly,

F. CHATTERTON, *Chairman.*

From the State of Michigan Mr. Wayne Newton, of the State commission of inquiry into county, township, and school-district government, Lansing, Mich., comes this letter:

STATE COMMISSION OF INQUIRY INTO COUNTY,
TOWNSHIP, AND SCHOOL-DISTRICT GOVERNMENT,
Lansing, October 11, 1932.

Speaking for myself alone, I heartily applaud the return of a common-sense point of view upon the subject of bank taxation. I believe the States should have the power to tax national banks in the same manner that State banks are taxed.

Very truly yours,

R. WAYNE NEWTON, *Secretary.*

From the State of Missouri there is this letter from the chairman of the State tax commission, Mr. J. T. Waddill:

STATE TAX COMMISSION OF MISSOURI,
Jefferson City, Mo., October 13, 1932.

I have your letter of October 6 with reference to taxation on banks. I most heartily agree with your views with reference to taxation of banks. Undoubtedly National banks, State banks, and trust companies doing a banking business should be taxed to the same extent.

Yours truly,

STATE TAX COMMISSION,
By J. T. W(DDILL, *Chairman.*

From the State of Washington comes this letter from S. H. Chase, State tax commissioner of the State of Washington:

OCTOBER 19, 1932.

We are in receipt of your letter of the 12th instant in re bank taxation, with enclosure as stated, for which we thank you.

This commission is in full accord with the provisions of the resolution adopted at the Columbus meeting and with those of the proposed bill drafted thereunder. We shall be glad to forward copies of the same to our Senators and Representatives in Congress and to urge upon them the desirability of the enactment of this bill into law.

For your information we are enclosing copy of our letter of September 30, 1932, to Mr. John Miller, tax editor of the United States Daily, Washington, D. C.

If we can be of other service, please advise.

Yours truly,

TAX COMMISSION OF THE STATE OF WASHINGTON,
By S. H. CHASE, *Chairman*.

Then there is a resolution which I should like to have printed in the RECORD. It was adopted in 1932 in a convention at Columbus by the representatives of States constituting the Association of States on Bank Taxation. It is as follows:

Resolved, That the representatives of States constituting the Association of States on Bank Taxation, being in attendance upon the twenty-fifth annual conference on taxation under the auspices of the National Tax Association, held at Columbus, Ohio, September 12 to 16, 1932, having given consideration to the problems confronting the States respecting the taxation of national banking associations, take the position that the existing Federal statutes limiting, restricting, and, we believe, in effect, prohibiting States from lawfully imposing reasonable taxes in any form upon such associations and upon their shares in the hands of holders, should be amended, and that in lieu thereof Congress should enact a statute extending to States the power to tax such association by the employment of such methods under their own systems of taxation as they may consider desirable, limited only by the provisions of the fourteenth amendment to the Constitution of the United States, provided that such taxation does not impose a greater burden than is assessed or imposed by the taxing State upon the property, income, and/or shares of banks organized and existing by authority of the taxing State: Be it further

Resolved, That we do hereby approve and reaffirm the resolution adopted at the 1921 session of the National Tax Association, reading as follows: "Be it

"*Resolved*, That, in the opinion of this conference, section 5219 of the United States Revised Statutes should be so amended as to permit the States to tax national banks or the shares thereof or the income therefrom, according to such systems as they may consider desirable, provided that such taxation shall not be at a greater rate nor impose a heavier burden than is assessed or imposed upon capital invested in general banking business and the income derived therefrom."

From the State of New Mexico comes a letter from Mr. Byron O. Beall, State tax commissioner, as follows:

NEW MEXICO,
STATE TAX COMMISSION,
Santa Fe, January 29, 1934.

Mr. GEORGE H. SULLIVAN,
President, Association of States on Bank Taxation,
State Capitol, St. Paul, Minn.

DEAR SIR: In connection with your recent letter relative to the proposed amendment to section 5219, United States Revised Statutes, please be advised that our commission will prepare and forward to our Representative in Congress a resolution urging the support of this amendment.

Assuring you that we are glad to assist, we are,

Respectfully yours,

STATE TAX COMMISSION,
By BYRON O. BEALL,
Chief Tax Commissioner.

Mr. President, these are a few communications in regard to this subject. I have already called attention to the fact that since this situation arose while capital and surplus of the national banks in the United States have increased 11 percent, and their taxes have decreased 39½ percent, showing that they are not carrying their just share of the burdens in the various local communities to pay for relief and to pay for local government, a situation which has existed entirely too long.

Because of the lateness of the hour, I do not care to impose upon the Senate by making a long, technical, and detailed discussion. I have stated the facts as to the situation which exists. I have brought here the testimony of tax commissioners from the various States who have probed and explored this subject for years. We have not been able to get relief from the Committee on Banking and Currency of the Senate.

I am sure that they have acted, in denying the relief, to their best judgment, and according to their consciences, but I cannot agree with them, and because of the emergency which exists in the taxing policies of the local governments supporting relief and local government, I have at this hour and on the pending bill offered the amendment which I have suggested in order that relief shall be granted by the only authority that has the power to grant relief. Failure to act will mean a discrimination against the States which works a hardship on every local community, and it is a situation which the Federal Government should not tolerate and should not be guilty of continuing.

The PRESIDING OFFICER. The question is on agreeing to the amendments offered by the Senator from Minnesota [Mr. SHIPSTEAD].

Mr. SHIPSTEAD. I ask for the yeas and nays.

Mr. GLASS. Mr. President, this is by no means a new proposal. It has been brought before the Congress and before the Committee on Banking and Currency from time to time for 14 years. Every Secretary of the Treasury since 1920 and every Comptroller of the Currency up to the present time has been opposed to the suggestion.

The Senator from Minnesota has not fully stated the question. It is not merely a question of States taxing national banks at the same rate at which they tax State banks. The proposal of the Senator from Minnesota is to segregate all banks, national as well as State banks, and to let the States tax them as they please.

I have here the last letter from the Secretary of the Treasury on the subject, a communication to the chairman of the Committee on Banking and Currency of the Senate, the Senator from Florida [Mr. FLETCHER], and referring to the bill to which the Senator from Minnesota has addressed himself, the Secretary stated:

This bill would place both State and National banks in a segregated class for taxation purposes. National banks are still instrumentalities of the Government. While they are no longer the chief source of paper money, they are the compulsory and most numerous members of the Federal Reserve System, and as such are essential not only to the currency function, but to an adequate supply of credit in other forms. The bill would in effect place power in individual States to wreck these Federal instrumentalities by unsound taxation if the States should so desire, and it is therefore dangerous.

It must be remembered that it is often difficult to reach the property of individuals for taxation purposes and that where the burden of taxation on moneyed capital employed upon individuals becomes too great, it can and usually does leave the State which imposes the heavy burden. On the other hand the bank's property may be easily ascertained and reached. It cannot leave the State and must either pay the tax or cease to do business. Moreover, the individual would look with favor upon the burden of heavy taxation on banks when the result would be to lighten his taxes, thus giving to the legislature which enacts the tax law a strong temptation to impose the heavy burden on the banks. The safety of the Federal banking structure should not be left to the powers of the legislature to resist such temptation. Therefore the Treasury is opposed to the enactment of S. 3009 into law but does favor the enactment of S. 2788, which has already been reported by the Banking and Currency Committee of the Senate.

That is with reference to the bill that was passed by the Senate at the last session but failed of enactment in the House.

In the same connection T. J. Coolidge, one of the clearest-headed men who has ever been connected with the Treasury Department, vigorously opposes the segregation of banks for taxation purposes.

The Senator has quoted some banking commissioner from Utah. I have a letter here from Marriner S. Eccles, Chairman of the Board of Governors of the Federal Reserve System, whose home is in Utah, agreeing entirely with Under Secretary Coolidge in opposition to this bill.

Mr. BENSON. Mr. President, will the Senator yield?

Mr. GLASS. I yield.

Mr. BENSON. The Senator has just quoted from Marriner S. Eccles, the present Chairman of the Board of Governors of the Federal Reserve Board.

Mr. GLASS. Yes.

Mr. BENSON. Would it surprise the Senator to know that probably Governor Eccles from Utah has a personal interest in this matter?

Mr. GLASS. No; that would not surprise me the least bit in the world.

Mr. BENSON. Would it surprise the Senator to know that Mr. Eccles himself had stated that he does not pay his taxes in Utah? Naturally he would be in favor of maintaining the law as it now is. Governor Eccles has stated publicly that he does not pay his taxes in Utah.

Mr. GLASS. That is a matter with which I cannot deal. I know nothing in the world about Governor Eccles' taxes—whether he pays them or does not pay them. I do know that he is the Chairman of the Board of Governors of the Federal Reserve System, and this bill was referred to him for his consideration, and that he is utterly opposed to it.

Not only that, Mr. President, but the State banks are utterly opposed to the bill. They have opposed it for 14 years successively by resolution and by the appearance before the Banking and Currency Committee of their representatives. The American Bankers' Association has uniformly and persistently opposed this proposition.

Mr. BENSON. Mr. President, will the Senator further yield?

Mr. GLASS. I yield.

Mr. BENSON. When the Senator says the State banks of this country are opposed to the bill, is the Senator referring to the American Bankers' Association or is he referring to the State banks?

Mr. GLASS. I am referring to the American Bankers' Association, in which the State banks are very largely represented.

Mr. BENSON. Very largely misrepresented, the Senator means.

Mr. GLASS. No; I do not mean that at all. I mean they are largely represented, and I should venture to say that a majority of the State banks belong to the American Bankers' Association.

Mr. BENSON. They may belong to it, but that does not say that they are getting representation by officers of the American Bankers' Association.

Let me ask the Senator another question. He stated that it would be highly improper to agree to the amendment because it would have a tendency to segregate banks for taxation purposes? I call his attention to page 31 of the bill and ask him if the last paragraph in section 14 is not a segregation of banks for exemption purposes.

Mr. GLASS. The Senator is talking about the tax bill?

Mr. BENSON. Yes; I am.

Mr. GLASS. I am talking about the amendment presented by the Senator from Minnesota.

Mr. BENSON. Yes; but is it not just as logical to segregate banks for taxation purposes as it is to segregate them in the bill for exemption purposes?

Mr. GLASS. I am stating to the Senate that the American Bankers' Association, to which belong all the national banks, and I think a considerable majority of the State banks, has uniformly objected to a provision similar to the one under discussion; that the Banking and Currency Committee over and over again has had hearings on the subject and has disapproved such a provision; that every Secretary of the Treasury since 1920 has disapproved such a measure, as has every Comptroller of the Currency. I do not think at this late hour of the night as the last proposition in connection with the tax bill we ought to take up a complex subject of this sort and put it onto the tax measure.

Mr. SCHWELLENBACH. Mr. President, I had not intended to speak upon this amendment, and I do not want to take up very much time to speak on it, but in view of the letter which the Senator from Virginia has read from an Under Secretary of the Treasury, Mr. Coolidge, I think the Democratic side of the Senate should not permit a statement which is so palpably fallacious to come from a representative of the Democratic administration without some effort upon the part of the Democrats in the Senate to answer it.

In the first place it is assumed in that letter that the result of an amendment of this kind would be to segregate banks for taxation purposes. I wish to say to the Members of the Senate that the banks of this country are today segregated for the basis of taxation. They are segregated out of all taxation, and they certainly would not object to some sort of segregation within the class of those that should be taxed.

I can see no reason for objection upon the part of the banks to join with the rest of the businesses of the country and the people of the country and pay some tax upon their assets and upon their businesses.

The second argument used by the Under Secretary is that it is dangerous to tax banks—that it may affect the business of the country adversely if we tax banks. I have no quarrel with banks. I at one time was the president of a bank, and I know something about the banking business, and I do not think that bankers are all crooks, because I do not agree that I was a crook.

Mr. GLASS. If the Senator thinks that banks do not pay taxes at all he knows very little about banks.

Mr. SCHWELLENBACH. I know what taxes are paid upon the assets of the banks in 16 States in the country, and I know that the national banks are not paying any taxes, and I know that as the result of that situation in many of the States the State banks are not paying any taxes. They pay a tax upon the real estate and upon nothing else. They do not pay a tax upon their assets. They do not pay a tax upon the amount of money that they used in their business for the purpose of owning property.

Mr. President, I am sorry to disagree with the Senator from Virginia, but I have been engaged in multitudinous litigation about this subject. I have carefully studied and presented to the court all of the decisions of the Supreme Court on the subject, and I do know something about it. I am sorry to disagree with him when the Senator from Virginia says that I do not know anything about it; but I do know something about it as the result of a very careful study of the subject.

Mr. GLASS. The Senator made the bald statement that the banks do not pay any taxes. The banks do pay taxes.

Mr. SCHWELLENBACH. I say that in 16 States of this country the national banks do not pay taxes, and that in many of those States the State banks do not pay taxes. I do not agree with the Under Secretary of the Treasury when he said that we have a banking institution in this country that is so close to the danger line that we do not dare entrust them to the State legislatures for the purpose of taxing. I have more confidence in the banking structure of the country than that. The Under Secretary of the Treasury completely overlooks one of the fundamental principles of taxation, and that is that taxation should be fair, and that in securing fair taxes we should levy taxes that are possible of accurate ascertainment. When he says that one danger about taxing banks is that their property can be easily taxed, that it is easily possible to ascertain proper taxes upon them, and that we should tax them because it is difficult in other instances, the Under Secretary simply flies in the face of the fundamental principles of taxation known to anybody who has ever studied the most simple principles of taxation or economics.

Mr. GLASS. In some way the Senator simply emphasizes the Under Secretary when I told him that every Secretary of the Treasury, including the present incumbent of that office, has been opposed to this principle.

Mr. SCHWELLENBACH. I stated in the beginning that my reason for speaking at this time was that I did not feel that there should be left in the RECORD a statement made by a Democratic Under Secretary of the Treasury that is as absolutely fallacious as the one read by the Senator from Virginia without someone on the Democratic side of the Chamber attempting to answer it.

Mr. GLASS. The letter I read was from Secretary Morgenthau.

Mr. SCHWELLENBACH. If it was, then there is twice the reason. I understood it was written by the Under Secretary.

Mr. GLASS. I said it was concurred in by the Under Secretary.

Mr. SCHWELLENBACH. There is twice the reason if the Secretary of the Treasury does not know anything more

about taxation or about the principles of economics than that. If that be true then somebody ought to rise and answer his argument.

Here is the fundamental controversy: The reason why we do not tax these banks is that they contend that competing capital is not taxed. We have savings-and-loan associations. They contend they are taxed and they come before every committee and draw their comparisons.

We have a bank with a capital of $1,000,000 and deposits of $20,000,000, $21,000,000 altogether. We having a savings-and-loan association with shares sold at $21,000,000.

Every time bankers appear before a legislative committee their contention is that the savings-and-loan associations should have a tax upon their entire $21,000,000, while the banks should not be taxed except upon $1,000,000. That is not fair.

A few years ago I presented to the banks of my State a proposition to enact a law in that State by which savings-and-loan associations and mortgage companies would be taxed on precisely the same basis; that the percentage the capital in the banks of the State bore to the capital, surplus, and deposits should be taxed, and that the same percentage should be taxed with reference to savings-and-loan associations. Does anyone think they were willing to agree to it? Absolutely not. They were not willing to agree upon any fair basis of taxation.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. SCHWELLENBACH. I yield.

Mr. BARKLEY. The illustration given by the Senator from Washington of the bank with $1,000,000 of stock and $20,000,000 of deposits, and the savings-and-loan association with $21,000,000 worth of stock, seems to me to present a situation which is not analogous. The $20,000,000 of bank stock is not the property of the bank. Of course, it is used by it to do business with; but in many States, if not most of them, that $20,000,000 is assessable against the depositor who has the money in the bank at a given date during the year which is the assessable date. Some States provide the bank shall pay the tax upon the deposit, but it is a tax chargeable against the depositor and not against the bank.

In the case of the savings-and-loan association the shares of stock are not the property of the association, but of the shareholders, so the provision of the law dealing with the subject provides the method by which the shares of the banks may be taxed, not the money which is on deposit in any of them. It seems to me that is really not a fair illustration of the situation.

Mr. SCHWELLENBACH. I may say to the Senator from Kentucky that the savings-and-loan association shareholders are in no different position than the depositors of the banks. It is true they own shares. If they could be taxed upon the same basis that the capital and surplus of the bank, which is the property of the shareholders in the bank, bear to the total amount of capital, surplus, and deposit liability, and if that same tax should be levied against savings-and-loan associations, then we would have a fair tax upon every one of them; but the bankers continually have refused to permit proposals of that kind to be carried out and have always said, "It would be unfair to tax us because you do not tax competing capital."

Mr. BARKLEY. Congress never made any effort to dictate to the States how they should tax deposits in national banks. They may be taxed by States as real estate may be taxed, as a bank building itself may be taxed. They are taxed in my State and in most States against the depositor of the bank who owns the deposit which is there, according to the amount at a certain time.

Mr. SCHWELLENBACH. That does not tax the $1,000,000 of capital on which the money is earned.

Mr. BARKLEY. No; that does not tax the $1,000,000 of capital. The present law provides that the $1,000,000 of capital represented in shares may be taxed by the State at the same rate and in the same manner that the State taxes are levied against competing financial institutions.

Mr. SCHWELLENBACH. Then they insist on taxing the entire $21,000,000 of the shares of the savings-and-loan association.

Mr. BARKLEY. That situation grows out of a decision of the Supreme Court in the Minnesota case, which holds that inasmuch as the State of Minnesota does not tax the other competing financial institutions in the same way it proposes to tax the shares of national banks, therefore the tax is not lawful; in other words, if they do not tax the shares of the competing companies under the national law, then they cannot tax the shares of national banks.

Mr. BENSON. Mr. President, will the Senator from Washington yield?

Mr. SCHWELLENBACH. Certainly.

Mr. BENSON. I want to make one slight correction. The decision of the Supreme Court does not state in so many words what the Senator from Kentucky attempted to say it does. The decision does say they cannot tax national banks on any different basis than that on which they tax any other moneyed capital coming in competition with national banks. Suppose the Jones Grocery Co. loans money to someone who may not, perchance, have an opportunity to borrow money from a national bank. Are we going to say that we cannot tax the national bank on any different basis than that on which we tax the Jones Grocery Co.?

Mr. BARKLEY. I do not know whether the Jones Grocery Co. would come under the definition of "moneyed institution" in the sense in which section 5219 contemplates.

Mr. BENSON. It does not have any bearing in this case because the Supreme Court has legislated on the matter and has said "other moneyed capital."

Mr. SHIPSTEAD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Minnesota?

Mr. SCHWELLENBACH. I yield.

Mr. SHIPSTEAD. It depends on what we call competing capital. The national bank does a commercial banking business. I do not know of any other institution that does that kind of business unless it is the State bank doing a commercial banking business. I cannot understand how mutual loan associations, if conducted for mutual benefit, or building-and-loan associations can be said to compete with a national bank or even a savings bank.

Mr. SCHWELLENBACH. Mr. President, it does not lie with us here to discuss the question. That was discussed by the Supreme Court.

I want to apologize for having taken the time of the Senate at this hour in the evening. I have no quarrel with the Senator from Virginia [Mr. GLASS]. It was really the letter from Secretary Morgenthau which I thought should be answered, and I am sorry so much time has been taken.

Mr. GLASS. Just let me correct one impression that is sought to be made, perhaps inadvertently, and that is that the States are not authorized to tax national banks as they tax State banks.

The existing law says:

> The legislature of each State may determine and direct, subject to the provisions of this section, the manner and place of taxing all the shares of national banking associations located within its limits. The several States may (1) tax said shares, or (2) include dividends derived therefrom in the taxable income of an owner or holder thereof—

That is what they do in Virginia—

> or (3) tax such associations on their net income, or (4) according to or measured by their net income, provided the following conditions are complied with:

And therein comes the decision of the Supreme Court of the United States which this amendment seeks to evade. The Supreme Court decided that under the law, moneyed capital that comes in competition with banks could be taxed at the same rate at which the banks are taxed.

Mr. GEORGE. Mr. President, may I ask the Senator a question? Of course everybody recognizes the right of a Senator to put anything on a tax bill; but is there any possible reason why we should be considering here, on a tax bill, what power the State ought to have to tax the capital invested in a national bank?

Mr. GLASS. The Supreme Court has already decided that question, and this amendment is simply designed to evade the decision of the Supreme Court.

Mr. GEORGE. What possible jurisdiction of that subject ought we to have here when we are considering a tax measure? It is peculiarly a matter for the Banking and Currency Committee and for other committees of the Senate; and manifestly, while we have the sheer power, if we are to consider these matters which have no possible connection with a revenue act, we shall probably be here for an indefinite period of time yet.

Mr. SHIPSTEAD. Mr. President, has the Senator concluded?

Mr. GEORGE. Yes; I have concluded. I recognize the right of the Senator from Minnesota to urge the amendment, but I cannot see the purpose of urging it on a tax measure.

Mr. SHIPSTEAD. I tried to explain the purpose when I offered the amendment. I stated to the Senate that I did not like to bring in this matter on the tax bill; I did not like to bring it in here at this late hour; but because of the outrageous situation that exists, due to Federal law, I am here asking for relief on behalf of 16 States.

Mr. KING. Mr. President, will the Senator yield?

Mr. SHIPSTEAD. Yes; I yield.

Mr. KING. As I understand, the bill is pending before the proper committee of the Senate, the Banking and Currency Committee, the membership of which is composed of outstanding men. They understand the banking business. They are competent to deal with this important question. Why should we siphon out of that committee this important measure—I assume the Senator believes it to be important—and take it over into the Finance Committee, which has no jurisdiction at all over the subject?

While, as the Senator from Georgia stated, the Senator from Minnesota has the power to offer the amendment to this bill, I do not think he ought to exercise it. I think he ought to pretermit any discusison of the matter on this bill, if the Senator will pardon the suggestion.

Mr. SHIPSTEAD. Mr. President, the Banking and Currency Committee has power to prevent action by the Senate on this subject, and it has exercised that power. While I disagree with the committee, I find no fault with it for exercising the power according to its judgment; and I assume the same right and take this opportunity to get relief.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. SHIPSTEAD. I yield.

Mr. BARKLEY. Not only has the Senate Committee on Banking and Currency declined to act favorably on this measure, but the Senate itself declined to do so when the proposal was offered as an amendment to the last banking bill which was passed in the last session of Congress. If the Senate declined to put the proposal on a banking bill, why should the Senate be asked to put it on a tax bill?

Mr. SHIPSTEAD. Mr. President, I have presented the matter to the Senate. I ask for a vote on the amendment.

Mr. BENSON. Mr. President, before we go on to other business I wish to make a brief statement.

It has been said here that the Congress is not attempting to legislate on how the States should tax banks; and yet just a moment ago the Senator from Virginia [Mr. GLASS] read from the banking law, in which he contends the Congress has given the States the right to tax national banks. It seems to me there is some inconsistency between what was said just a few minutes ago and the law which the Senator has read. I should like to have that matter explained.

Mr. GLASS. Oh, no; that is not important. Let us vote.

Mr. BENSON. Just a minute.

It has been represented to the Senate time and time again, several times in the short time I have been here, that Congress is in no position to pass laws giving the States the right to tax national banks; and yet the Senator from Virginia just a moment ago read a portion of the Banking Act which he said gives the various States a perfect right to tax national banks in any manner they see fit.

Mr. GLASS. Oh, no; not in any manner they see fit. That is just what we wish to avoid.

Mr. BENSON. Just so long as they do not tax national banks in a different manner from that in which they tax State banks.

I contend that is not the case. It is true if the law should be interpreted as the Senator from Virginia has just interpreted it, and probably as Congress intended when it passed the law. The Supreme Court of the United States has interpreted it otherwise, however; and there are today 16 States in the United States which cannot tax their national banks on the same basis on which they tax their State banks.

It has also been said, both by the Senator from Virginia and in the letter from the Secretary of the Treasury, that it would be dangerous to permit the various States to tax national banks on any basis on which the legislatures of the various States should decide. It is also stated there that it would be segregating banks and putting them into a special class. I desire to call the attention of the Senate again to page 31 of the bill we are now considering, in which the Senate today is placing banks in a separate class and segregating them; but we are not segregating them for purposes of taxation. We are segregating them so that they may be exempt from taxation. If we have a right to segregate banks for the purpose of exempting them from taxation, we ought to be willing to give the various States the right to tax them in the manner they deem best.

The PRESIDING OFFICER (Mr. GERRY in the chair). The question is on agreeing to the amendment offered by the Senator from Minnesota [Mr. SHIPSTEAD].

Mr. SHIPSTEAD. On that I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. SHIPSTEAD. Mr. President, how many hands have to be held up—what percentage of the Senators present?

The PRESIDING OFFICER. Eighty-five Senators were present on the last quorum call. It is necessary to have one-fifth of that number. Seven hands only were raised.

The question is on agreeing to the amendment offered by the Senator from Minnesota. [Putting the question.] The noes have it, and the amendment is rejected.

Mr. HAYDEN. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 76, line 19, after the word "organizations", it is proposed to insert a comma and the words, "or water-users' associations operating Federal reclamation projects".

Mr. KING. I accept the amendment.

Mr. LA FOLLETTE. Mr. President, may I ask the purpose of the Senator's amendment?

Mr. HAYDEN. To place water-users' associations in the same status as municipal water districts.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Arizona.

The amendment was agreed to.

Mr. HAYDEN. Mr. President, I ask unanimous consent to have printed in the RECORD a statement regarding the amendment.

The PRESIDING OFFICER. Without objection, the statement will be printed in the RECORD.

The statement is as follows:

Water users' associations operating Federal reclamation projects should not be subject to corporate income tax.

Federal reclamation projects are operated in three ways: (1) By the United States directly; (2) by irrigation districts which are municipal corporations; and (3) by incorporated water users' associations. The United States has contracts with water users' associations, as distinguished from irrigation districts, on 12 projects out of a total number of 37.

All of the revenues of a Federal reclamation project, whether operated by the Government, by a district, or by an association, are derived from Government properties; that is, operation of Government-owned power plants and Government-owned water canals. There are power plants on six water users' association projects, on four of which the association has assumed operation.

There should be no discrimination in the tax laws between the various types of projects. Power revenues on all of them are pledged by statute to the United States to repay the Government the cost of constructing the project and, if power revenues are taxable, the deficit paid by the farmers in the form of assessment is increased.

A water users' association is not a municipal corporation but, as the Supreme Court of Arizona has said:

"It can probably be best described as a private corporation with a public purpose, and having quasi-governmental powers" (*Citrus, etc., Assn. v. Salt River, etc., Assn.*, 34 Ariz. 105).

Federal statutes recognize water-users' associations and irrigation districts indiscriminately as instrumentalities for operating Federal reclamation projects. Thus the reclamation law authorizes Federal projects to be operated under contract with the Secretary either by irrigation districts or water users' associations. Title 43, United States Code, section 500 provides:

"Subsection G. (Transfer of project to water users—receipts credited as part of construction repayments.) That whenever two-thirds of the irrigable area of any project, or division of a project, shall be covered by water-right contracts between the water users and the United States, said project shall be required, as a condition precedent to receiving the benefits of this section to take over, through a legally organized water-users' association or irrigation district, the care, operation, and maintenance of all or any part of the project works, subject to such rules and regulations as the Secretary may prescribe, and thereafter the United States, in its relation to said project, shall deal with a water-users' association or irrigation district, and when the water users assume control of a project the operation and maintenance charges for the year then current shall be covered into the construction account to be repaid as part of the construction repayments (43 Stat. 702)."

Section 36 of the Farm Mortgage Act of 1933, as amended by the joint resolution of June 27, 1934, makes the following authorization:

"SEC. 36. The Reconstruction Finance Corporation is authorized and empowered to make loans as hereinafter provided, in an aggregate amount not exceeding $125,000,000 to or for the benefit of drainage districts, levee districts, levee and drainage districts, irrigation districts, and similar districts, mutual nonprofit companies, and incorporated water users' associations duly organized under the laws of any State, and to or for the benefit of political subdivisions of States, which prior to the date of enactment of this act have completed projects devoted chiefly to the improvement of lands for agricultural purposes."

Under that section the Reconstruction Finance Corporation has made loans to irrigation districts and water users' associations, including the Salt River Valley. All of the other organizations named in that section are nontaxable and the statute apparently grouped them all as one class.

The counsel for the Securities and Exchange Commission, in exempting from registration securities proposed to be issued by the Salt River Valley Water Users' Association under the Reconstruction Finance Corporation refunding loan, just referred to, ruled, on November 16, 1935:

"In the light of the history of your association, and in view of the provisions of the Reclamation Act and the provisions of its several contracts with the United States by which it operates the Salt River project, it is my opinion that your association is a 'person controlled or supervised by and acting as an instrumentality of the Government of the United States.' I therefore feel that securities (including guaranties) issued by your association are exempted from the registration requirements of the Securities Act of 1933."

Department of the Interior, Bureau of Reclamation—Water users organizations on Federal reclamation projects under contract to repay construction charges

State and project	Name of water users association	Date organized	Contractual relations
Arizona:			
Yuma Valley division	Yuma County Water Users Association	Nov. 2, 1903	Joint liability contract for repayment of construction charges and advancing funds for operation and maintenance. Net power revenues credited to construction charges annually.[1]
Salt River	Salt River Valley Water Users Association	Feb. 4, 1903	Joint liability contract for repayment of construction charges. Association has assumed operation and maintenance of irrigation facilities and power plants.[1]
California: Orland	Orland Unit Water Users' Association	Mar. 19, 1907	Contract executed for repayment of construction and operation and maintenance charges under designation as fiscal agent of United States. No power involved.
Colorado: Grand Valley	Grand Valley Water Users' Association	Feb. 7, 1905	Joint liability contract for repayment of construction charges and advancing funds for operation and maintenance. Power revenues from lease of power site credited to construction and operation and maintenance charges.[1]
Colorado: Uncompahgre	Uncompahgre Valley Water Users Association.	May 11, 1903	Joint liability contract for repayment of construction charges and assumption of operation and maintenance at association's expense. No power involved.
Wyoming: North Platte	Lingle Water Users Association	1916	Contract for repayment of pro-rata share of storage and right to use interstate canal. No power involved.
Utah: Strawberry Valley	Strawberry Water Users Association	Aug. 2, 1905	Joint liability contract for repayment of construction charges and assumption of operation and maintenance at association's expense. Association operates power plant and distributes net earning annually to credit of construction charges.[1]
Salt Lake, first division	Weber River Water Users Association	Jan. 9, 1926	Joint liability for repayment of construction cost and assumption of operation and maintenance at association's expense.
Hyrum	South Cache Water Users Association	Sept. 30, 1933	Do.
Moon Lake	Moon Lake Water Users Association	1934	Do.
Ogden River	Ogden River Water Users Association	1934	Do.
Washington: Yakima-Tieton division	Tieton Water Users Association	Mar. 10, 1906	Contract for repayment of pro-rata share of construction charges and O. & M. charges under designation as fiscal agent of United States.

[1] Power credits involved.

Mr. MURRAY. Mr. President, I send to the desk an amendment, which I ask to have stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Montana will be stated.

The CHIEF CLERK. It is proposed to insert, at the proper place in the bill, the following:

The Secretary of the Treasury is hereby authorized and directed to collect an excise tax on the entry into the United States of all goods, articles, or commodities, which goods, articles, or commodities were made dutiable under the Tariff Act of 1930, or carry an excise tax by action of the excise taxes of 1932. The tax herein assessed and levied shall represent the difference, less 8 percent allowed for profits and handling charges, between foreign costs and the American wholesale selling prices, or cost of production, whichever is higher, of a similar or comparable goods, articles, or commodities, the products of American workers or farmers. Such tax shall be assessed and collected notwithstanding any other provision of law.

Mr. KING. Mr. President, this is not a tariff bill under consideration, and speaking for the committee, I may say the amendment cannot be accepted. I hope it will be voted down.

Mr. MURRAY. Mr. President, I should like to have it go to conference.

Mr. KING. I could not agree to that, in view of the position of the committee.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. KING. Mr. President, may I ask whether there are any other amendments to be offered by Senators?

Mr. BARKLEY. Mr. President, I have two or three more to offer.

Mr. COPELAND. Mr. President, I can see no reason why I should not go forward with my amendment.

Mr. BARKLEY. I did not desire to take the Senator off the floor.

Mr. COPELAND. In the absence of the chairman of the committee, the Senator from Mississippi [Mr. HARRISON], I call attention to a conference which we had last August relative to an amendment which I proposed to a bill then pending providing a different system of liquor taxation.

The bill before us is one to provide revenue. I have a proposal here which will raise $250,000,000 of revenue and it is well worth considering.

I call attention to the RECORD of August 24, 1935, and to the inclusion in the RECORD of an agreement entered into at that time. I quote this what the Senator from Mississippi [Mr. HARRISON] stated:

This matter was brought to the attention of the chairman of the Finance Committee and the members of the committee, and I wish to congratulate the Senator from New York for having brought it to our attention. I will say that the Senator performed a great public function in bringing it to our attention. I can assure him, in view of a conference with the Ways and Means Committee which we had this afternoon, that this matter will receive all due consideration.

I place in the RECORD, as it appears on page 14951, a statement I made at that time. I quote my own language:

I had a talk with the chairman of the House committee [Mr. DOUGHTON], and the chairman of the Finance Committee [Mr. HARRISON], and with our leader [Mr. ROBINSON], and with the Senator from Wisconsin [Mr. LA FOLLETTE]. I want this to appear in the RECORD, and I want Senators to remember it. I had been solemnly promised that a joint subcommittee of the two committees should be appointed to study the plan.

Mr. President, I do not desire to take the time of the Senate further. I have this amendment, which I should like to have taken to conference, and I ask the Senators whether they will accept it.

Mr. NORRIS. Mr. President, I just heard the Senator express a hope that they would take the amendment to conference. The way to have that done is to have it defeated. That is the rule we have established.

Mr. BARKLEY. Mr. President, this matter was presented to the Committee on Finance, and given very careful consideration in connection with the alcohol-control bill, which has passed both Houses, and upon which a conference report has been agreed to. It has no real business in a tax bill of this sort and, so far as I am personally concerned, I will say frankly that I was unable to support the proposal when it was offered as an amendment to the alcohol tax bill, and I have not changed my attitude toward it. But if it is agreeable to the Senator from Utah and other Senators on the committee who are in charge of the bill, I see no objection to letting it go to conference, and having it dealt with there.

Mr. COPELAND. I appreciate that, Mr. President.

Mr. KING. May I say that I gave consideration to this proposal at the time indicated by the Senator from Kentucky, and I was opposed to it and am still opposed to it. However, if the members of the committee are willing that it go to conference, I shall not attempt to prevent such action, but I wish to have it understood that I do not favor the amendment or the plan which it involves.

The PRESIDING OFFICER. The clerk will state the amendment proposed by the Senator from New York.

The CHIEF CLERK. It is proposed to insert at the proper place in the bill title II of the Liquor Taxing Act of 1934, as follows:

(c) Title II of the Liquor Taxing Act of 1934 is amended to read as follows:

"SEC. 201. (a) There shall be levied, collected, and paid upon all distilled spirits sold at retail a tax of $2 on each proof gallon or wine gallon when below proof and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon.

"(b) No tax shall be imposed upon any distiller or importer under paragraph (4) of subdivision (a) of section 600, as amended, of the Revenue Act of 1918, in respect to any distilled spirits taxable under this section.

"SEC. 202. The internal-revenue tax imposed by the preceding section upon distilled spirits shall be collected from retailers, who shall affix to every bottle or other container of distilled spirits at the time of its first retail sale or retail transfer unopened in a container for on- or off-premise consumption, and to every bottle or other container of distilled spirits out of which any part of the contents is removed for the purpose of retail sale, transfer, or use on or off the premises, before such container is opened, a stamp or stamps indelibly canceled, denoting the quantity of distilled spirits contained therein and evidencing payment of all internal-revenue taxes imposed on such spirits, and in the case of imported spirits, of all customs duties imposed thereon.

"SEC. 203. Any licensed retailer possessing or coming into possession of distilled spirits upon which all internal-revenue taxes and customs duties imposed by law shall have been paid, shall be entitled to purchase such stamps as are necessary for stamping the containers of distilled spirits in the manner required by the preceding section. Stamps for this purpose may be purchased by such retailer only from the collector of internal revenue for the revenue district in which such retailer's place or places of business for retail sales shall be located. Such retailer shall present satisfactory proof to such collector of internal revenue that such tax and customs duties on such distilled spirits have been paid. Such stamps shall be sold by the collector to such retailer at a price of 1 cent for each stamp, except that in case of stamps for containers of less than one-half pint, the price shall be one-fourth of 1 cent for each stamp.

"SEC. 204. No person shall manufacture, distill, rectify, import, transfer, or sell at wholesale or at retail any distilled spirits unless such person shall have furnished a surety-company bond given by a company, companies, or syndicate of companies approved by the Commissioner of Internal Revenue and guaranteeing the payment of all taxes and customs duties imposed by law on such distilled spirits, with such terms and conditions and in such penal sum as may be approved by said Commissioner. The provisions of this section shall not apply to any regularly established common carrier receiving, transporting, delivering, or holding for transportation or delivery distilled spirits in the ordinary course of its business as a common carrier.

"SEC. 205. The Commissioner, with the approval of the Secretary of the Treasury, shall prescribe (a) regulations with respect to the time and manner of applying for, issuing, affixing, and canceling stamps required by this title, the form and denominations of such stamps, proof that applicants are entitled to such stamps, and the method of accounting for receipts from the sale of such stamps; and (b) such other regulations as he shall deem necessary for the enforcement of this title.

"SEC. 206. All distilled spirits found in any container required to bear a stamp by this title, which container is not stamped in compliance with this title and regulations issued thereunder, shall be forfeited to the United States.

"SEC. 207. Any person who violates any provision of this title, or who, with intent to defraud, falsely makes, forges, alters, or counterfeits any stamp made or used under this title, or who uses, sells, or has in his possession any such forged, altered, or counterfeited stamp, or any plate or die used or which may be used in the manufacture thereof, or any stamp required to be canceled by this title, or who makes, uses, sells, or has in his possession any paper in imitation of the paper used in the manufacture of any such stamp, or who reuses any stamp required by this title to be canceled, or who affixes any stamp issued under this title to any container of distilled spirits on which any tax is unpaid, or who makes any false statement in any application for stamps under this title, or who has in his possession any such stamps obtained by him otherwise than as provided in this title, or who sells or transfers any such stamp otherwise than as provided in this title, shall on conviction be punished by a fine not exceeding $1,000 or by imprisonment at hard labor not exceeding 5 years, or by both. Any officer authorized to enforce any provisions of law relating to internal-revenue stamps is authorized to enforce the provisions of this section and the provisions of section 7 of the act of March 3, 1897, relating to the bottling of distilled spirits in bond."

(d) This section shall take effect 60 days after the date of enactment of this act.

The amendment was agreed to.

Mr. COPELAND. I ask unanimous consent to have inserted in the RECORD a statement regarding the amendment just voted on.

The PRESIDENT pro tempore. Is there objection?

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

The amendment which is offered is designed to accomplish four specific objectives:

First, as I view it, there will be an increase in Federal and State revenues from distilled spirits by more than $300,000,000 annually.

Second, it will eliminate bootlegging, rum-running, and other illicit selling, as far as it is possible to do that, because all liquor sold at retail will be tax paid.

Third, it will reduce liquor prices to consumers by from 25 to 50 percent, which in itself will interfere seriously with bootlegging operations.

Fourth, it makes the buyers, as well as the sellers, of non-tax-paid spirits liable to conviction as conspirators defrauding the Government of lawful taxes.

The tax now being paid at the bonded warehouse is pyramided. The tax is $2 a gallon. On a case of liquor, assuming that they are quart bottles, that is $6 a case at the bonded warehouse. Now, when that liquor goes to the wholesaler he adds 16⅔ percent, so that the case of liquor, when it leaves the wholesaler for the retailer, has its tax increased to $7. The retailer gets his 40 percent, and so that adds about $2. By this pyramiding process, as I view it, the liquor is materially increased in price at the retail store because of the pyramiding of the tax. If that could be prevented in some manner it would mean that the liquor sold to the consumer would be at least 25 percent cheaper than it is today, and also would be discouraging to the bootlegger, because, improved as his methods are, he cannot make liquor as cheaply as the large commercial concerns.

Mr. President, last year this amendment was passed by the Senate. Then, in conference with the House, the amendment was eliminated because the House Members took the position they had not had an opportunity to study the proposal. Of course, I was disappointed and when the conference report came in, expressed my disappointment.

I had a conference, which I mentioned on the floor of the Senate on the 24th of August, with Mr. DOUGHTON of the House, Mr. HARRISON of the Senate, Mr. ROBINSON, our leader, and Mr. LA FOLLETTE, and I think one or two others, and it was agreed then that both committees would this year give serious consideration to my proposal.

There was a hearing held last year by a subcommittee of the Committee on Finance, presided over by Mr. WALSH, and, as I understand the matter, he made a favorable report of the amendment and it was adopted by his committee and included in the bill.

I was convinced last year, and I am now, that this amendment will accomplish all of these four objectives, and whoever has

taken the time to study the detailed workings of this proposed system of tax collection agrees with this position. This has been submitted to a great many persons who have, after studying it, taken the same view of the matter as I have.

It will put the responsibility of the tax payment where it belongs—on the man who passes the distilled spirits to the ultimate consumer who pays the taxes. Then, and only then, can bootlegging be eliminated and all tax evasion overcome.

And I claim that at least 200 million dollars annually is being lost to the Treasury through such tax evasion.

Under the present system we are inviting any or all of three individuals who are between the consumer and producer to evade taxes, namely, the distiller or rectifier or importer; second, the wholesaler; and third, the retailer, who either sells by bottle for off-premises consumption or sells liquor by the glass for consumption on the premises.

The present system, as I view it, has two outstanding disadvantages which operate to defeat tax-collecting machinery. First, because taxes and import duties are now collected at the source the result is what I have already mentioned. The pyramiding of overhead and profit create not only a profit on the manufacturer's cost but on each successive distributing turn-over because each successive handler adds his operating profit, not only on the manufactured value of the goods, but on the additional taxes and duties as well. On each dollar of tax and duty collected by the Federal Government the consumer pays approximately $2. Every dollar that the Government collects by the pyramiding process is doubled; it becomes $2.

I have mentioned one disadvantage of the present system, that of defeating tax collection. The second one is this: a strip stamp attached to the neck of a bottle acts as the sole evidence that all tax and import duties have been paid. Huge tax evasions are possible, because the strip stamp costs only 1 penny while that stamp might authenticate tax payment of from 50 to 200 times the cost of the strip stamp.

Now I will show you a little later that it is possible to obtain these strip stamps, which cost only a penny, and put them on liquor which has been made by a bootlegger. And yet, so far as the honest retail man is concerned, and the consumer who desires to be square with the Government, he has no evidence of the fact that this tax or that this liquor is actually liquor which has passed through a bonded warehouse and paid the Government the tax.

We are talking now about increased taxes and the necessity for having more money from the taxpayer.

If I am right about this, there are here two or three hundred million dollars' revenue for the Government which will not come out of the taxpayer but will come out of the profits of a group of bootleggers who are certainly not entitled to the money.

This amendment is based upon the tax plan of the District of Columbia, slightly modified. Here in the District taxes are collected by affixing tax stamps to bottles which cost the amount of the 50 cents per gallon tax. In other words, instead of allowing the tax to be evidenced by the issuance of stamps costing 1 cent, which might represent a tax payment of $1, the District sells stamps which cost the amount of the actual tax due. And then the retailer, or the wholesaler who sells the retailer, affixes these stamps to the bottles. The retailer cancels them with an imprint bearing his license number.

And what are the results?

Figures were submitted at the hearings proving that the District of Columbia is collecting taxes on approximately six times the gallonage on either an outlet or per-capita basis that the Federal Government is collecting. I am going to enlarge upon this. In other words, the District tax-collecting method is six times as effective as is the method now used by the Federal Government.

Of course such a result prompts the suggestion that the District system must cost more money to administer. It just so happens, however, that it costs the District of Columbia only about 25 percent of the cost per gallon that it costs the Federal Government. Therefore, it may be said the District is collecting six times the tax at one-fourth of the cost. Surely such a demonstration should remove any question as to the desirability of adopting this proposal.

I have already told you what the action was last year. I am more than ever impressed that this amendment should be enacted into law. I am convinced that it will result in hundreds of millions of dollars in Federal revenue at a time when we are compelled to find new methods of taxation to raise additional revenue to balance our Budget.

My proposal does not contemplate new taxes on liquor. It imposes a hardship on no legitimate-business man or industry. It merely proposes to get for the Government money and profits which are now going into the pockets of bootleggers or racketeers. It will reduce liquor prices to the consumer by from 25 to 50 percent, which is another reason why it would discourage the bootlegger. I am sure it will work, because a similar plan is working here in the District getting four times better tax-collecting results than is the Treasury.

Now you may properly ask, If this method is so good, why has it not been adopted before? Frankly, I don't know. You would imagine that any plan which held out the hope of collecting from two hundred to three hundred million dollars more than is now being collected annually and of also reducing liquor prices and stamping out bootleggers would be pounced on eagerly by Treasury officials.

There are some persons who believe that the Treasury Department is gifted with infallibility. Most of these persons are in the Treasury Department. I am convinced very few of the gentlemen on this floor share that belief. Their experiences with the Treasury Department have tended to set up a contrary feeling. At least that is the case with me.

A considerable number of the Treasury Department personnel seem supersenitive to intrusion. They resent outsiders and any ideas begotten by outsiders with reference to their duties. So they find it difficult to discover merit in conceptions or calculations that do not originate among themselves. That is a sad state of affairs, because it excludes a great many valuable ideas from which constructive tax legislation might be evolved.

Are these Treasury officials so infallible in their judgment, so sure of their facts that if they disapprove of some plan or program we must accept their views without question?

By no means, as I shall soon show you. Not only are they not infallible, not only are their representations of facts often incorrect (as the Finance Committee found out when Mr. May testified before it on this very bill), but if they decide for some reason best known to themselves that they are against something they will fight with every resource at their command.

However, this is one time that a Member of this body also has some resources to marshal. There was offered before the Finance Committee incontrovertible evidence of gross inefficiency and incompetence in the collection of liquor taxes due the Government which today result in a tax loss of at least $200,000,000. If you will bear with me, I will prove it. And I want you to follow me closely, because if I am right, and I am sure I am, then the requirements of the tax bill we have under consideration now can be reduced by at least $200,000,000.

The time has come for us to stop extravagance, waste, and inefficiency in administration. If I can show you a loss annually of $200,000,000 on one item alone—liquor—would it not cause you to ask, how much more might there now be collectible were our tax-collecting machinery more efficient? No department that allows that much to slip through each year can be wholly competent in all other tax-collecting procedure.

As I told you, this amendment was introduced by me last year. It was accepted by the Finance Committee as an amendment to the F. A. A. bill, passed by the Senate and then went to conference with other Senate amendments. When the bill came back from conference this amendment had been deleted.

When the conference report was offered to the Senate for passage, I reintroduced the amendment, knowing that such action on my part might delay the program before us.

But I insisted then, as I do now, that too much money is not being collected from liquor taxes which are due. In the discussions which followed assurance was given me that the matter would be carefully studied. So I withdrew my objections to the conference report.

Two months ago a subcommittee sat with my good friend from Utah as chairman and took testimony for and against my amendment. I spent the whole day in the committee room. I testified myself and heard expert testimony for the amendment. I heard the testimony of Mr. Berkshire representing the Treasury. I am going to tell you about the Treasury testimony first.

The Treasury set forth seven main arguments, namely:

1. That bootlegging has steadily diminished since last year, due to more vigorous enforcement methods and to the steadily improving quality and diminishing price of legitimate spirits.

In the testimony before the subcommittee on my amendments Treasury records were introduced that conclusively proved that illicit liquor still seizures in 1935 exceeded those of 1934 by more than 50 percent. This shows that illicit distilling was sufficiently profitable in 1935 to encourage more bootleggers to operate illicit stills in that year than in the previous year. Obviously, bootleggers do not build stills with a capacity, computed on Mr. Choate's basis, exceeding 600,000,000 gallons annually, unless an established market exists for this illicit product.

Furthermore, evidence was introduced showing that there were twice as many liquor-law commitments to Federal prisons in 1935 as in 1934, which would indicate that there had been 69,000 prosecutions for liquor-law violations in 1935, a greater amount than in any prohibition year.

Now, you know as well as I do that this great army of bootleggers and rum runners would not remain in business, subjecting themselves to prison penalties and heavy fines, unless enormous profits continue to exist in illicit distillation and in illicit distribution.

The Treasury contends further:

"2. That the present-day consumption, if it reaches 110,000,000 gallons annually, would reflect true demand."

Mr. Berkshire testified before the committee that for the 5-year period from 1910 to 1914 average consumption was 127,000,000 gallons; that for the 5 years immediately preceding repeal consumption averaged 110,000,000 gallons annually. Hence, he argued, if present-day consumption would amount this year to 110,000,000 gallons from last year's 90,000,000 gallons, that in itself would prove that all is well, that we are collecting all the taxes due us, that there is no bootlegging.

Furthermore, Mr. Berkshire argued that "if it is a fact that the Government is today losing from $200,000,000 to $300,000,000 in taxes by reason of illicit sales, this means that the consumption of bootleg spirits amounts to from 100,000,000 to 150,000,000 gallons a year or in the neighborhood of from 200,000,000 to 260,000,000

gallons a year by comparison with the maximum preprohibition figure of approximately 127,000,000 gallons."

That is correct. That is my contention. Consumption is nearer the 200,000,000-gallon mark than the 110,000,000 mark. This I shall prove to you beyond reasonable doubt. But first let me call your attention to how the figures submitted by the Treasury to the committee were made to prove the one hundred and twenty-seven and the one hundred and ten million gallon maximums. Personally I am sorry that the Treasury estimate of liquor consumption is so far from the mark, and more regrettable is the way they select their figures in attempting to prove their argument.

In 1918, taxes on liquor were revised from $1.10 per gallon to $2.20 per gallon. Taxes were paid on 91,000,000 gallons in 1918, as against 167,000,000 gallons the previous year, when the tax was $1.10 per gallon. The Treasury did not state to the committee that for the years 1915, 1916, and 1917 the tax-paid consumption was one hundred and twenty-seven, one hundred and forty, and one hundred and sixty-seven million gallons, respective, making an average of 145,000,000 gallons annually for the 3 years, a high of 167,000,000 gallons, not 127,000,000 mind you. No. They took those 3 years and added them to the 2 following, when consumption was 91,000,000 and 83,000,000—due to increased taxes and wartime prohibition—added the 5 years together, and said 110,000,000 gallons was the average.

And therefore, they argue, if we ever get back to 110,000,000 gallons everybody should be satisfied and no one should question the Treasury's ability, efficiency, or system of tax collection.

Well, I for one am not satisfied. I question the efficiency of the system, of the efficiency and the ability of any official who submits such proof to substantiate his claim of efficient administration, who proves he knows so little about his subject, or else, what is worse, deliberately submits his figures in such fashion and by such groupings as to misinform us of the true facts. After reading of the Treasury's estimate of revenue offered to the committee on the tax bill we now have before us and looking over their figures on liquor one is prompted to question if any of their figures represent facts.

Now, what are the true facts regarding liquor consumption?

Simply this: In 1916 and 1917 our population was about 98,000,000 people. Of these, some 58,000,000 lived in the 20 States which were wet, 28 States of the Union being dry by statute.

Today we have 127,000,000 people, 115,000,000 of whom live in wet States. If 60,000,000 people living in wet States in 1917 consumed 167,000,000 gallons of liquor, how much liquor would you say was being consumed by 115,000,000 people living in wet States today? Were we to project our figures mathematically we could argue that if 60,000,000 people consumed 167,000,000 gallons in 1917, then 115,000,000 people in 1936 are consuming 320,000,000 gallons annually, which is 230,000,000 gallons above the amount on which the Treasury collected taxes last year.

Here is another reason why consumption surely exceeds 200,000,000 gallons annually.

The Treasury has stated that there are from 225,000 to 250,000 licensed retail outlets. This would mean that each licensee's sales averaged 480 gallons annually, or 40 gallons per month. Furthermore, the Treasury states that more than one-half of the whisky being sold today is priced at $1.50 per quart.

Now, license fees for retailers throughout the country average $500 annually; rent would average perhaps $1,200, without considering clerks, insurance, or the maintenance of the owner and his family, costing at least $350 monthly. How can a man remain in business if his gross sales per month amount to $240 of which (as in the case of a package store) his gross profit could not exceed $80, whereas his expenses amount to at least $500 per month?

I conclude, therefore, that since all these people are remaining in business and more are trying to take out licenses, that licenses are being used as cloaks to sell illicit spirits far in excess of the amount sold which has been tax paid. I contend that the average package store throughout the country must do a gross business exceeding $30,000 annually(this would mean 5,000 gallons, not 480, at $6 per gallon) in order that it might stay in business.

Mathematically speaking, if one-half of the consumption of the country is represented by sales from package stores, then the present consumption would be considerably in excess of 300,000,000 gallons. The best illustration of this is that consumption here, in the District, where a system similar to that proposed in my amendment is in operation, is at the rate of 3,000 gallons annually per outlet, or six times the tax-paid consumption reflected by Federal tax collections.

The Treasury contends:

3. That counterfeit labels, counterfeit strip stamps, and counterfeit bottles are not being used due to improved enforcement methods and to the supervision by the Department over the manufacture and distribution of liquor bottles and strip stamps.

An expert witness testifying before the committee offered to produce counterfeit labels, counterfeit American strip stamps, counterfeit Canadian bottled-in-bond stamps, and counterfeit bottles in any quantity, to prove that they are as readily available today as ever they were in prerepeal days. Furthermore, if the committee guaranteed immunity, he offered to have delivered to it as much as it desired of 100-proof whisky of good quality in quarts or pints bearing legitimate strip stamps and District of Columbia tax stamps, at a cost not exceeding $7.50 per case of 3 full gallons. Obviously this liquor is bootleg, because the $7.50 is only sufficient to cover the cost of the Federal and District tax.

The Treasury contends:

4. That because excise taxes on distilled spirits are now collected from distillers and importers, and because these collections are under the supervision of revenue officers, there can be no evasion: That there is no loophole "save for possible instances of collusion between producer and Government officers."

I have not raised the issue of possible collusion between producer and Government officers. The quotation is Mr. Hester's. It is general knowledge, however, that considerable collusion existed in pre-repeal days. If the same men are in the Department in responsible posts who were there during the prohibition days it might be argued that since collusion existed then it continues to exist now.

However, whatever taxes are being collected from distilleries and importers under revenue officers have no bearing on the taxes which are not collected from those who do not pay taxes.

For instance, Treasury agents in 1935 captured more than 16,500 stills. Additionally, the State enforcement agencies captured about an equal amount. These stills were in operation making illicit liquor. Did not the Treasury Department fail to collect the $2 Federal tax which was due the Government on every gallon of liquor distilled by these stills? If they ran only an average of 2 months, the tax loss to the Government would be far greater than the total amount of tax collected from legitimate distillers, rectifiers, and importers.

Let me read you from the report to the Governor and Legislature of the State of New Jersey, by D. Frederick Burnett, Commissioner, Department of Alcoholic Beverage Control:

"Alcohol costs but 20 cents a gallon to produce. It bears a Federal tax of $2 and a State tax of $1 per gallon, or a tax of 1,500 percent. When to this is added the expense of distribution and the reasonable profits of the distiller, the wholesaler, and the retailer—say, $1.27 altogether—the minimum price at which legitimate alcohol may reach the consumer is $4.47. The bootlegger, however, sells it for $2.50 a gallon. Fair competition is obviously out of question. As long as these high taxes remain, the differential between legitimate and illicit industry is a standing invitation to violate the law. Because the bootlegger pays no tax, he can always undersell the legitimate licensee by a substantial margin. He captures the market of the price-conscious public, who gulp his products while he gobbles the profit.

An illicit still that produces 1,000 gallons per day costs $10,000 to install. The sale of 1,000 gallons brings a gross income of $2,500. If the cost of bootleg production is 40 cents per gallon, or twice that of legitimate mass production, he has left $2,100. Assuming his distribution cost to be extremely high—say, $1,100 to include the "pay-off" to dishonest officials—he still has left $1,000 per day net profit. If he pays less for protection, his net profit is even higher. If he runs 10 days unmolested, his capital cost is repaid. If we are able to detect and seize his still in a month from the time it started, he forfeits his property, to be sure, but he has his original investment in hand and enough profit to start two new stills "on velvet." The result is the same whatever the gallon capacity, since the ratio to cost of installation is roughly 1 to 10. Thus a still of 100-gallon capacity costs $1,000. Hence, with a small capital investment, the bootlegger is on his way to fortune. He himself not only pays no taxes, but every gallon sold slakes a demand which otherwise would be satisfied from the lawful supply and so bear its share of tax. He is not only a tax evader, but he deprives the State of taxes, which, otherwise, would be collected from legitimate sources. So long as enormous profits are to be made, men will take the risk.

The Treasury contends:

5. That the proposed system would very substantially increase the rate of taxes on distilled spirits. This is not so.

The custom of the trade is to add a percentage for operating expense and profit on the cost of the product. It stands to reason that where the cost is reduced initially, by perhaps one-half, because the taxes are not included, the retail price must be substantially less than the price now charged.

The Treasury contends:

6. That the cost of the proposed system would be very great, requiring not fewer than 20,000 additional employees.

Less employees would be needed rather than more. In the statement made before the committee a comparison was made between the Secretary's estimate of the Treasury's cost in collecting revenue and the actual expenses of the District A. B. C. Board's entire operation. This showed that the District is collecting six times as much revenue at one-fourth cost, due to the system it is using in the District, similar to the one I propose should be nationalized. The District has two investigators on its pay roll covering 653 outlets. On the same basis the Federal Government would need some 700, or about one-fourth of the number now in the Treasury doing similar work.

The Treasury contends:

7. That the tax as now imposed is not pyramided by reason of a percentage mark-up; that all handlers of liquor fix arbitrary amounts on each transaction in dollars and not in percentages; that the dollar element would remain constant regardless of the cost of the goods to manufacturers, wholesalers, and retailers.

I am prepared to submit printed price lists showing what are the retail mark-ups on practically all distilled spirits now being sold throughout the country. These price lists are compiled by manufacturers and establish the retail selling price. They show that the mark-up is a definite percentage, ranging from 33⅓

percent to 40 percent on the cost of the goods to the retailers, regardless of the price of the goods.

All retailing is done in all lines of business on what is known as a retail mark-up, namely, a specified percentage on the cost to the vendor of the goods. If the goods cost less, the mark-up in dollars is less; if the goods cost more, the mark-up in dollars is more and the percentage remains constant. Hence, if the goods included prepaid taxes, which on all liquors represent from two to five times the actual value of the distilled spirits themselves, the pyramiding of these taxes means that the consumer pays from 30 to 50 percent more for goods which are tax paid than he would under my amendment.

Those are the seven main arguments set forth by the Treasury. They claim that bootlegging has diminished and I have proven to you that it has increased.

They claim that present-day consumption, if it reaches 110,000,000 gallons annually, would reflect the true demand of the country, and I have shown you that the true demand would amount to at least twice this much either on a population basis or if all those now licensed to handle liquor can continue to remain in the business.

They claim that there are no counterfeit labels, counterfeit strip stamps, or counterfeit bottles being used due to the supervision by the Department, and I have proven that counterfeit labels, counterfeit strip stamps, and counterfeit bottles are as readily available today as ever before, and also that 100-proof whisky can be bought bearing both legitimate strip stamps and District stamps at a cost equal to the taxes these stamps represent.

They claim that because excise taxes are now collected from distillers and importers there can be no evasion. I show that hundreds of millions of gallons were illicitly distilled in the 16,000 stills captured by them before the stills were destroyed. What happened to the liquor made in these stills before they were destroyed? Surely it was introduced into channels of distribution.

They claim that the proposed system would require many additional employees. I have shown that if they do as well as the District A. B. C. Board is doing, they can probably cut the cost of supervision and administration by 70 percent.

They claim that adopting my plan would increase the cost of liquor. I have proven to you conclusively that it will reduce liquor prices to the consumer by from 25 to 50 percent.

Here is an additional piece of information:

As I told you before, the Treasury records show that there were captured by Treasury agents last year 16,500 stills, 50 percent more than in 1934. If these stills ran only 2 months their output would have exceeded 100,000,000 gallons of moonshine.

To distribute this liquor through licensed retail channels, strip stamps were needed to give it the appearance of legitimacy and authenticity. Bottles, labels, and caps and corks are easy to get, but strip stamps must be on the bottle when it's sold to the public.

Well, strip stamps come from two sources. Large quantities are being counterfeited and sold to bootleggers. But also large amounts were issued to the collectors of internal revenue which are unaccounted for. A witness testified before the committee that some 400,000,000 of these stamps were unaccounted for.

Here is what is shown in the printed record of the hearings:

Now practically every citizen who sees a strip stamp on a bottle assumes that the stamp itself costs the amount of the tax. This is not so. This stamp costs 1 cent, whereas for domestically made liquor, in the case of a quart, it would represent the evidence of tax payment of 50 cents. In the case of a quart of foreign liquor, such as Canadian bottled in bond whisky, it would represent only the 50-cent full excise tax, but also, up to January 1 of this year, $1.25 of import duty. Furthermore, the tax in most States approximates $1 per gallon and this too is covered by the strip stamp except where local taxes are paid by stamps as they are here in the District.

Hence, if large-scale operators could secure these strip stamps they could, for the small cost of the strip stamp, authenticate liquor which had avoided tax payment of from 50 to 200 times the value of the strip stamp.

Have the stamps been available? The Treasury Department says, "No." We say they are available in enormous quantities, perhaps to the extent of from two hundred to four hundred million, not counting counterfeit stamps which are being counterfeited in large quantities by various groups, who then sell them to the illicit producer, who thereby authenticates his products and gives it the appearance of legitimacy.

Mr. Chairman, I went to the Bureau of Engraving and Printing and obtained detailed information on the strip-stamp situation from the date the Liquor Taxing Act of 1934 became effective through December 31, 1935. The figures I am putting into the record now cover three periods, namely—

(1) From February 1934 to June 30, 1934.

(2) From July 1, 1934, to June 30, 1935.

(3) From July 1, 1935, to December 31, 1935.

These figures cover the issuance of strip stamps to collectors of Internal Revenue, of whom there are, I believe, 62. These stamps are sent out from the Bureau direct to collectors on their own order. The Bureau keeps on hand at all times, of different denominations, from 2 to 3 months' supply. The Bureau's inventory on December 31, 1935, was:

Red strip stamps, 263,320,964.

Green bottled-in-bond stamps, 14,970,384.

Blue export stamps, 457,984.

Any stamps which do not reflect actual excise-tax payments in the Treasury Department's Form 7095 (which details monthly collections of internal revenue) should be in the hands of collectors or the trade.

Below, in detail, is the history of the issuance of these stamps to collectors. The column "Gallons authenticated" represents the amount of gallonage-tax payment the issuance of these stamps should cover.

[All figures are in thousands]

Red strip stamps, Revenue Act 1934	Feb. 1 to June 30, 1934	Fiscal year 1935	July 1 to Dec. 31, 1935	Total stamps issued to collectors	Gallons authenticated
Serves less than 1934:					
½ pint	68,383	16,360	17,562	102,307	1,279
Do	51,555	35,240	----------	86,795	5,424
Pints	131,070	87,072	----------	218,142	27,268
⅛ gallon	65,115	30,585	----------	95,700	19,140
Quarts	46,470	24,842	----------	71,312	17,818
Serves 1934 A:					
½ pint	----------	147,365	146,580	293,945	18,371
¾ pint	----------	10,512	674	11,186	4,195
⅛ pint	----------	9,588	1,522	11,111	4,444
Pints	----------	247,726	174,594	422,320	52,715
¾ quart	----------	10,092	968	11,060	2,074
⅛ quart	----------	82,975	64,134	141,109	29,422
Quarts	----------	90,252	101,052	191,304	47,826
½ gallon	----------	4,096	128	4,224	2,112
1 gallon	----------	5,402	560	5,963	5,963
Total	362,593	802,112	507,775	1,707,788	2,308,051
Bottled in bond stamps:					
1/10 pint	4,027	2,025	211	6,264	2,577
¼ pint	331	----------	----------	331	10
½ pint	692	798	993	2,484	155
Pints	14,457	3,909	2,251	20,618	78
⅛ gallon	195	392	70	658	131
Quarts	1,999	1,628	1,275	4,093	1,226
Total stamps issued	384,298	810,867	512,577	1,743,050	243,228

Gallonage the above would authenticate

[All figures are in thousands]

	From Feb. 1 to June 30, 1934	Fiscal year 1935	July 1 to July 31, 1935	Actual gallonage tax-paid
Taxes received, 90 cents per gallon, floor taxes	$5,685	$3,021	$44	$8,722
$2 or $1.10 import excise tax	6,577	15,107	7,682	15,533
$2 or $1.10 domestic excise tax	61,889	150,525	106,210	167,358
Less floor tax gallonage and less sales made before strip stamps went into effect (gallons)	----------	----------	----------	28,186
Actual gallonage authenticated by stamps	18,790	79,459	56,456	154,705
Excess stamps issued to collectors or trade (estimated by computing percent tax paid with stamps)	215,207	304,059	107,641	----------
Total excess in hands of collectors and trade (cumulative)	----------	519,266	626,907	[1] 651,907
In hands of trade (estimated)	----------	----------	----------	25,000
In hands of collectors (estimated)	----------	----------	----------	200,000
Unaccounted for	----------	----------	----------	429,000

[1] Including January 1936.

This table discloses, perhaps better than anything else which can be submitted, the fallacy of using strip stamps to authenticate tax-paid liquor. During the period from February 1, 1934, to December 31, 1935, the Bureau of Engraving and Printing issued 1,743,050,000 strip stamps, which, when affixed to the neck of a bottle, would certify that all taxes and import duties on that particular bottle had been paid.

This amount of stamps actually would authenticate more than 242,000,000 gallons.

The actual amount of gallonage which was authenticated as a result of taxes received by the Federal Treasury in this period was less than 155,000,000. Hence the amount of strip stamps in the hands of collectors and the trade would be sufficient to authenticate more than 87,000,000 gallons. In terms of stamps, this would mean that at the present time more than 650,000,000 stamps are in the hands of collectors and the trade.

The trade carries for its total requirements a running inventory of between twenty and twenty-five million stamps. Hence the excess in the hands of collectors should be more than 625,000,000.

The Bureau of Engraving and Printing has on hand more than 275,000,000 stamps available to all collectors within no more than 2 weeks' time.

These facts show that collectors received in excess of their tax-paid requirements of 215,000,000 stamps in the fiscal year of 1934, 304,000,000 stamps in the fiscal year of 1935, 107,000,000 stamps between July 1 and December 31, 1935, and an estimated 25,000,000

for January 1936, an estimated excess of 625,000,000 since the act went into effect.

We admit that some of the stamps are in the hands of collectors and some are in the hands of the trade. Just how many are in the hands of collectors we have been unable to find out. An inquiry to the Treasury Department from Senator COPELAND'S office brought the following letter from the Honorable Guy T. Helvering, Commissioner of Internal Revenue:

FEBRUARY 1, 1936.

MY DEAR SENATOR: Further reference is made to your letter of January 24, 1936, in the third paragraph of which you request information relative to the number of strip stamps for distilled spirits which were in the possession of various collectors of internal revenue and any other agency of the Treasury Department as of June 30, 1935.

It may be stated for your information that there are three types of strip stamps supplied for the use of the liquor industry for application to containers of distilled spirits, namely, red strips for the ordinary liquor and imported spirits, green strips for bonded liquor marketed in the United States which must be at least 4 years old before it is bottled, and blue strips for the same type of bonded liquor which is exported. The records of the Bureau do not disclose the number of these strip stamps in the hands of collectors of internal revenue on June 30, 1935. However, the records show that during the fiscal year beginning July 1, 1934, and ended June 30, 1935, this Bureau shipped to collectors of internal revenue for sale to the liquor industry a total of 928,540,420 strip stamps of the three types mentioned, in denominations ranging from one-tenth pint to 1 gallon.

Very truly yours,

GUY T. HELVERING, *Commissioner.*

The Commissioner says in his letter that "the records of the Bureau do not disclose the number of these strip stamps in the hands of collectors of internal revenue on June 30, 1935."

Mr. Chairman, these 625,000,000 stamps could, in the case of imported liquor on which duties as well as taxes are collectible, represent evidence of possible tax revenue exceeding $700,000,000.

Does it reflect efficient supervision on the part of the Treasury that there are no records of their disposal?

We have done some checking on our own initiative and set forth as our unqualified conviction that these 625,000,000 stamps are not all now in the possession of the various collectors of internal revenue. If they are not, Mr. Chairman, it means that they have found their way into the hands of those who propose to use them to avoid paying the duties and taxes which are due the Federal Government under law. Furthermore, the fact that any appreciable amount of these stamps may have been secured by illicit operators would constitute definite evidence that the system which the Treasury Department insists is the most perfect which can be devised breaks down completely in its operation because it does not accomplish the purpose for which it was designed, namely, the assurance of collection of all taxes which are due.

Another point which may interest you is the fact that the strip stamp is perhaps the only revenue stamp used by the Treasury Department as an evidence of tax payment which does not cost the buyer the full amount of tax which it represents.

The strip stamp which costs 1 penny can be used to authenticate as much as a $2 tax payment—in other words, 200 times its actual cost. No illicit operator would try to obtain these stamps if they cost the full amount of tax payment which they authenticate.

Let me furnish you an additional example which shows that strip stamps are being used to authenticate liquor on which taxes have not been paid. Here is another letter from Commissioner of Internal Revenue Helvering to Senator COPELAND:

FEBRUARY 17, 1936.

Hon. ROYAL S. COPELAND,
United States Senate.

MY DEAR SENATOR: Referring further to your inquiry of January 24, 1936, the total number of each size liquor bottle manufactured during the fiscal year ending June 30, 1935, as reported by bottle manufacturers, is as follows:

Size of container:	*Number of bottles*
½ pint	151,767,360
*¾ pint	2,817,216
⅘ pint	4,135,824
*$\frac{24}{25}$ pint	117,360
1 pint	255,917,520
*¾ quart	884,448
⅘ quart	67,458,240
$\frac{24}{25}$ quart	1,609,632
1 quart	88,246,224
½ gallon	1,102,608
1 gallon	2,507,904
*13 ounce	16,128
*12⅘ ounce	28,656
*20 ounce	1,872

The figures preceded by asterisks denote containers for "specialties", which are not eligible for use in packaging whisky, brandy, rum, gin, or alcohol.

Very truly yours,

GUY T. HELVERING,
Commissioner.

This letter, translated into stamps needed and stamps actually issued, offers the following comparison:

[All figures in thousands]

	Gallonage represented	Stamps needed to reflect tax payments	Stamps actually issued	Percent issued to those needed
½ pint	9,485	151,767	182,605	121
⅕ pint	413	4,135	9,588	234
1 pint	31,989	255,917	334,799	131
⅕ quart	13,491	67,458	113,560	170
1 quart	22,061	88,246	115,094	130
½ gallon	555	1,102	4,096	372
1 gallon	2,507	2,507	5,046	200
Total	80,504	517,135		
Domestic gallonage, tax paid	75,262			
Imported gallonage, tax paid	7,553			
Total gallonage, tax paid	82,816	589,535	829,540	141

These bottles, bought by distillers and rectifiers during the fiscal year of 1935, are sufficient for about 80,000,000 gallons. Tax-paid imports in bottles of foreign manufacture added to domestic tax-paid gallonage would increase this total to less than 83,000,000 gallons. The domestic and import requirements, therefore, would amount to bottles sufficient for 83,000,000 gallons. These bottles, based upon Commissioner Helvering's report of bottle sizes, would need less than 590,000,000 stamps.

Up to June 1934 there had been issued to collectors and the trade 215,000,000 stamps more than needed to authenticate all tax-paid consumption to that date. Hence, these excess stamps should have represented the inventory available to legitimate producers. No stamps are needed by the legitimate trade in excess of the amount of bottles legitimately used. It is against the law to reuse bottles, so the amount of stamps used should equal the bottles bought.

There were some 250,000,000 more stamps issued than bottles bought during 1935, despite the fact that there had been some 215,000,000 more stamps issued in 1934 than required by the gallonage-tax payments.

Furthermore, during the next 6 months again more stamps were issued than needed to the extent of 107,000,000.

Also in January of this year an additional fifteen to twenty million more than required went to collectors.

What becomes of them? Where are they? Commissioner Helvering says the records of his Bureau do not disclose the number in the hands of collectors. Well, our investigation has proved to us that they are not all in the hand of collectors and the legitimate trade, that many are and have been available to the illicit industry; and if these were used exclusively to authenticate liquor on which duties as well as taxes were due, then the tax evasion could amount to many hundreds of millions of dollars.

Mr. BARKLEY. Mr. President, I send to the desk two amendments, one to be inserted on page 262 and the other on page 266. The amendments are exactly alike, and I ask that they be considered together.

The PRESIDENT pro tempore. The clerk will state the first amendment.

The CHIEF CLERK. It is proposed, on page 262, line 3, to strike out the phrase "or mistake in mathematical calculation", and after the word "section", in line 6, to insert the words "and the mathematical calculation therein".

Mr. BARKLEY. Mr. President, the object of the amendment is to save about 90 days in the payment of the refunds already provided for in the bill. It will save the necessity of the General Accounting Office making calculations after the Bureau of Internal Revenue has already done so and determined the amounts due.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDENT pro tempore. The clerk will state the next amendment offered by the Senator from Kentucky.

The CHIEF CLERK. It is proposed on page 266, lines 12 and 13, to strike out the words "or mistake in mathematical calculation", and on line 15, after the word "section", to insert a comma and the words "and the mathematical calculation therein".

The amendment was agreed to.

Mr. BARKLEY. I offer another amendment, which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The CHIEF CLERK. On page 290, after line 17, it is proposed to insert the following:

Section 605 of the Revenue Act of 1932 is hereby repealed.

The amendment was agreed to.

Mr. POPE. Mr. President, I offer an amendment, which I send to the desk.

The PRESIDENT pro tempore. The clerk will state the amendment.

The CHIEF CLERK. It is proposed to insert at the proper place the following:

Section 604 and section 608 of the Revenue Act of 1932, as amended, are hereby repealed and the following provisions are substituted therefor and shall be known as section 604:

"SEC. 604. TAX ON FURS.

"There is hereby imposed upon the following articles, sold by the manufacturer, producer, or importer, a tax equivalent to 3 percent of the price for which so sold, articles made of fur on the hide or pelt of which any such fur is the component material of chief value."

Mr. KING. Mr. President, the committee is familiar with the amendment, and it may go to conference.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. POPE. Mr. President, I desire to insert in the RECORD a letter which I have written to the chairman of the committee which fully explains this amendment. I desire also to have inserted in the RECORD as a part of my remarks a letter from the representative of the National Grange in support of this amendment, a letter from the American Farm Bureau Federation in support of the amendment, and a letter from the Farmers National Grain Corporation in support of the amendment, all representing the fur growers of the United States. I desire also to have inserted in the RECORD a letter from the National Fur Tax Committee giving a list of all the associations of furriers, cleaners, manufacturers, and fur producers throughout the United States in support of this amendment.

I desire to say also that, so far as the fur industry is concerned, the farmers, those who produce the furs on the farm—and about 80 percent of all the furs are produced by farmers—as well as all the dyers and cleaners and manufacturers, are united in support of this amendment; and, in addition to that, the Treasury Department also supports this amendment. It will provide just as much revenue as is now being received.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Idaho for the printing in the RECORD of the letters referred to by him?

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

MAY 8, 1936.

Hon. PAT HARRISON,
Chairman, Finance Committee,
United States Senate, Washington, D. C.

DEAR SENATOR HARRISON: Pursuant to our conversation concerning the matter, I desire to call to your attention the enclosed suggested amendment to the revenue bill which the Finance Committee now has under consideration. It is the intent of this amendment to revise the tax on furs. I realize that it is not the intention of the administration to open the excise-tax question to discussion, but I feel that there are several reasons why this amendment can be adopted as an exception, without opening the general excise question to discussion.

The fur industry and the Treasury Department have indicated to me that the luxury tax on furs imposed under sections 604 and 608 of the Revenue Act of 1932 is in a chaotic condition. Evasions of the tax have become so prevalent that the Treasury feels that a 3-percent "over all" tax will yield just as much revenue as the present 10 percent on articles over $75. Farmer-trappers have reported to me that prices offered them for furs valued from $75 to $100 have been reduced by buyers to $74.95 to evade the tax. The fur manufacturers in many instances are further evading the tax in the following manner:

A $150 fur coat is sent in two packages, one containing the collar, one containing the coat. These articles are billed separately at $74.95 each.

Sometime ago I introduced Senate bill 3654, which changed the point of taxation from manufacturing to processing, reduced the tax to 4 percent, and eliminated the $75 exemption. In reporting on that bill the Secretary of the Treasury said:

"In the event that a change with respect to the tax on furs now imposed under section 604 of the Revenue Act of 1932, as amended by section 608 of the Revenue Act of 1934, should be in contemplation for the relief of the industry, it is the recommendation of this Department that a revision of the law be effected by eliminating the exemption with respect to articles selling for less than $75 and substantially lowering the rate of tax. The exemption in the case of articles selling for less than $75 has afforded a broad field of tax evasion, and has increased substantially the difficulties encountered in administering the law and the cost of such administration."

Pursuant to that suggestion I introduced the bill S. 4375, which merely revised the existing tax by reducing it to 3 percent and eliminating the $75 exemption. In reporting on this bill Acting Secretary of the Treasury Wayne C. Taylor made certain routine suggestions, which have been complied with, with respect to the bill, and stated:

"Your attention is directed to my letter of February 21, 1936, relative to the merits of S. 3654 (74th Cong., 2d sess.). In view of the recommendation contained in that letter in the event a change was contemplated in respect to the tax on furs, this Department does not offer any objections to the enactment of S. 4375 (74th Cong., 2d sess.), other than the suggestions noted above."

I believe, therefore, that the proposed amendment enclosed herewith is agreeable to the Treasury Department. The National Fur Tax Committee, representing the industry as a whole, has advised me of its desire that the amendment be adopted. Many individual interests within the fur industry have likewise advised me.

Trappers and farmers of the West have expressed support of the bill. I am sure you will be interested in the enclosed letters from the American Farm Bureau Federation, the Farmers National Grain Corporation, and the National Grange, which are in support of the amendment.

In view of the peculiar conditions surrounding this situation and the urgent need for a reform of the tax on furs, I would appreciate the consideration of the Finance Committee in placing this amendment in the bill.

Very sincerely yours,

J. P. POPE.

THE NATIONAL GRANGE,
Washington, D. C., May 7, 1936.

Hon. JAMES P. POPE,
Senate Office Building, Washington, D. C.

DEAR SENATOR: My attention has been called to your bill repealing the 10-percent tax on all fur garments costing more than $75 and imposing in lieu thereof a 3-percent ad valorem tax on all manufactured furs.

It is our belief that the existing tax on furs has not worked out as was intended, but that it has resulted in lower prices on furs and pelts to trappers and producers.

Under the circumstances we would be satisfied to see the provisions of your bill incorporated in the pending revenue act.

Sincerely yours,

FRED BRENCKMAN,
Washington Representative.

AMERICAN FARM BUREAU FEDERATION,
Washington, D. C., May 7, 1936.

Senator JAMES P. POPE,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR POPE: Perhaps I have previously called your attention to the position of the American Farm Bureau Federation in regard to the Federal luxury tax on furs. However, in looking over our farm bureau policy on tax matters generally, I notice, in connection with your bill, S. 4375, a resolution of the federation, adopted at the last annual meeting in December 1935, which reads as follows:

"We favor the elimination or modification of the so-called luxury tax on furs, which now has a depressing influence on prices received by farmer-trappers for raw furs."

The present luxury tax on furs begins at a $75 value on the garment, the result of which is to force garments below the $75 price line which otherwise would sell above that line. This tendency forces the purchaser of raw furs to pay less prices for these products which are produced very largely by farmer-trappers in all parts of the Nation. In fact, I believe it is approximately right to state that between 75 percent and 80 percent of the furs of this Nation are gathered by farmer-trappers and their sons. Anything which tends to beat down the prices on raw furs is serious to a large list of farmers who, in the winter months mostly, when work is light, gather the fur crop of the Nation.

Your pending measure modifies the present luxury tax on furs by substituting for it a 3-percent tax on furs, irrespective of the prices at which such furs are sold. This plan will produce approximately the same amount of revenue as is secured from the present luxury tax on furs, will not depress prices received by farmer-trappers for raw furs, will be easier to enforce and less costly than is the present tax, and will apply to imported as well as domestic furs.

It is hoped that you can secure the incorporation of your measure in the pending revenue bill, and you may feel free to

call on me to help in any way in which this objective may be attained.

Very respectfully,

AMERICAN FARM BUREAU FEDERATION,
CHESTER H. GRAY,
Washington Representative.

FARMERS NATIONAL GRAIN CORPORATION,
Chevy Chase, Md., May 7, 1936.

Hon. JAMES P. POPE,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR: The leaders in our organization, as well as those in the Northwest Farmers Union group, whom I have the honor to represent here at Washington, have become very much interested in your bill, S. 4375.

We have come to the conclusion that it will best serve the purposes of both the Government and those interested in the first sale of furs to reduce the excise tax from 10 to 3 percent and entirely eliminate the $75 exemption.

We will be deeply obliged for your advice as to what we may do to gain the favorable consideration of Congress in this matter.

Respectfully yours,

M. W. THATCHER.

NATIONAL FUR TAX COMMITTEE,
New York, May 18, 1936.

Senator JAMES P. POPE,
Senate Office Building, Washington, D. C.

DEAR SENATOR POPE: This committee, which represents the majority of the fur industry, doing about 90 percent of the fur business, heartily endorses your bill which calls for elimination of the $75 exemption and the taxing of all manufactured furs at 3 percent.

Not only will this measure produce more money for the Government, but it will, in addition, eliminate all of the evils of the present tax.

With very few exceptions, every worth-while association of the industry, whether it be an association of retailers or manufacturers, is strongly in favor of your bill. The American Farm Bureau Federation, the National Grange, all recognize the value of the bill and in letters to this committee have expressed themselves in favor of the measure.

If there is any way that this committee can help you, please call upon us.

Very sincerly yours,

NATIONAL FUR TAX COMMITTEE,
MICHAEL HOLLANDER,
National Chairman.

NATIONAL FUR TAX COMMITTEE,
New York City, May 20, 1936.

Senator JAMES P. POPE,
Senate Office Building, Washington, D. C.

DEAR SENATOR: Here is a list of a number of associations which have written the national headquarters and put themselves on record in favor of your bill.

In every case a poll of membership was taken by the association, and its board of directors were authorized to issue a statement to National Fur Tax Committee headquarters expressing the feeling of the membership: Washington State Fur Dealers Association, 72 Columbia Street, Seattle, president, C. B. Coselman; Louisiana Fur Dealers Association, 413 Decatur Street, New Orleans, secretary, Edward H. Ceite; the Raw Fur Dealers Association of the State of New York, Syracuse, N. Y., president, Joseph F. Brightman; Association of Landowners and Lessees of Landowners of Fur Industry, 413 Decatur Street, New Orleans, secretary, Edward H. Ceite; Association Fur Merchants Salesmen's Association, Hotel Governor, Clinton, N. Y., secretary, Sidney Kramer; Iowa-Nebraska Furriers Association, 613 Pierce Street, Sioux City, Iowa, president, August Williges; Chicago Wholesale Fur Credit Association, Inc., 190 North State Street, Chicago, Ill., president, S. Watzer; Illinois Silver Fox & Fur Breeder Association, room 1476, 208 South La Salle Street, Chicago, Ill., president, Lou Silverman; San Francisco Retail Fur Merchants' Association, 625 Market Street, San Francisco, Calif., president, L. J. Grueger; Technical Association of the Fur Industry, 199 Pacific Street, Newark, N. J., vice president, Leo Altenberg; National Association of Resident Fur Commission Salesmen, 36 South State Street, Chicago, Ill., president, Frank L. Finch.

I venture to say that nine out of ten associations are in favor of your bill. These associations represent those devoted to fur farming, dressing and dyeing, manufacturing, and retailing. In other words, a complete cross-section of the fur industry shows strong support for you.

I am also sending you under separate cover a poll of the outstanding men of the industry on questions of interest to you. You will see that here, too, there is a great majority in favor of your plan.

A thousand thanks to you, Senator, for your efforts to relieve us of a horrible state of affairs which exists in the fur trade today. Your bill will help everyone who has anything to do with furs, from the farmer-trapper to the retailer.

I want you to know how much we appreciate your very splendid efforts.

Very sincerely yours,

NATIONAL FUR TAX COMMITTEE,
MICHAEL HOLLANDER,
National Chairman.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Idaho [Mr. POPE].

The amendment was agreed to.

Mr. BONE. Mr. President, in 1935 we negotiated successfully a reciprocal agreement with Canada. In section 1760 of that agreement shingles were placed on the free list and all shingles are now brought into the United States duty free. There was, however, a provision in the agreement that the Canadian producers of red-cedar shingles might export to the United States from Canada the equivalent of 25 percent of the total consumption in the United States, which is equal to about 75 percent of the total production in Canada. There was a provision in section 1760 reserving to the United States the right to limit the total quantity of red-cedar shingles, which are only a fraction of the free shingles coming into the country, and to restrict Canada to 25 percent of the combined total of the shipments of red-cedar shingles by producers in the United States and the imports of such shingles during the preceding half calendar year.

Let me say to my colleagues and to the Chair that under the N. R. A. there had been a 25-percent import arrangement entered into between the producers of this country and the producers in Canada as affecting red-cedar shingles, and the amendment which my colleague [Mr. SCHWELLENBACH] and myself offer, and which has been presented to the Committee on Finance and the Senator from Utah [Mr. KING], merely implements this provision of section 1760 of the reciprocal-trade agreement, and authorizes the President to breathe the breath of life into it. It was assumed that the 25-percent arrangement as to red-cedar shingles, which, as I have said, are only a fraction of the shingles introduced into this country, would be entered into subsequently; but there was some question in the mind of the Secretary of State as to the right of the President to do that; and the amendment we are now tendering to the pending bill is, I repeat, merely to implement the section and breathe the breath of life into it. We are asking that it be adopted so that at least it may go to conference. I understand that the Senator from Utah has no objection to it.

Mr. KING. If the Senator from North Dakota [Mr. NYE] has no objection, speaking for the committee, the amendment may go to conference.

The PRESIDENT pro tempore. Without objection, the amendment is agreed to.

Mr. NYE. I inquire if the amendment offered by the Senator from Washington has been reported at the desk.

The PRESIDENT pro tempore. It has been agreed to.

Mr. NYE. Was it reported to the Senate?

Mr. KING. I understood that it was reported while I was conferring with the clerk.

Mr. BONE. The amendment follows, in considerable measure, the exact language of the reciprocal treaty itself.

Mr. NYE. Yes; but is it not rather a departure from the rule to agree to amendments without having them even reported to the Senate?

Mr. KING. I ask that the amendment be stated.

The PRESIDENT pro tempore. The clerk will state the amendment.

The CHIEF CLERK. On page 272, after line 12, it is proposed to insert the following:

Whenever any organization or association representing the producers of more than 75 percent of the red cedar shingles produced in the United States during the previous half-year period shall request the President to limit the importation of red cedar shingles from Canada under paragraph 1760 of the reciprocal trade agreement entered into with the Dominion of Canada under date of November 15, 1935, and the President finds from available statistics that the total quantity of red cedar shingles produced in the Dominion of Canada which is entered, or withdrawn from warehouse, for consumption in the United States, during any given half of any calendar year exceeds or will exceed 25 percent of the combined total of the shipments of red cedar shingles by producers in the United States and the imports during the preceding half year, the President shall issue an order limiting for the 6 months immediately following the half of the calendar year in which said excess occurred, the quantity of red cedar shingles to be imported from Canada to 25 percent of the combined total of the shipments and imports of red cedar shingles for such preceding half calendar year. The President shall issue a new order

for each half of the calendar year thereafter during the continuation of the operation of the reciprocal trade agreement entered into with the Dominion of Canada, under date of November 15, 1935, with the same limitations as hereinbefore set forth.

Mr. NYE. Mr. President, understanding that the amendment is going to be taken to conference, I ask unanimous consent that at this point in the RECORD a memorandum concerning the amendment prepared by the New York lumber trade may be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM ON THE AMENDMENT PROPOSED BY SENATORS BONE AND SCHWELLENBACH TO REVENUE BILL (H. R. 12395)

Senators BONE and SCHWELLENBACH introduced on May 15, 1936, an amendment which they intend to propose to the revenue bill. The amendment provides that whenever the manufacturers of 75 percent of the domestic production of red-cedar shingles may request, the President shall be compelled to issue an order limiting imports of red-cedar shingles to 25 percent of the domestic consumption in the preceding half year.

This proposal should be defeated. It is not revenue legislation. It has no place in a revenue bill. It cannot produce and is not designed to produce revenue. It is purely and simply a matter of customs administration.

Furthermore, this legislation is not necessary. Under existing law (the Tariff Act of 1930, as amended by the Trade Agreements Act, Public, No. 316, 73d Cong.) the President has the power "to proclaim * * * such additional import restrictions * * * as are required or appropriate to carry out any further trade agreement that the President has entered into * * *."

"Import restrictions" are further defined as including "limitations, prohibitions, charges, and exactions other than duties imposed on imports or imposed for the regulation of imports."

Exercising his authority under this act, the President entered into a trade agreement with Canada in which it was provided that the President could limit imports of shingles to 25 percent of the domestic consumption.

In enacting the Trade Agreements Act in 1934, the Congress repealed all of the countervailing provisions in the tariff act. The amendment of Senators BONE and SCHWELLENBACH is an attempt to insert again a provision equivalent to the old countervailing provisions with respect to shingles, a commodity which was not before subject even to a countervailing duty, although lumber had such a provision in paragraph 1803 of the Tariff Act. Worse, it makes the countervailing provision mandatory and removes the discretionary authority of the President to limit imports which he specifically retained in enacting the trade agreement with Canada. The amendment would change the terms of the trade agreement with Canada. To enact the amendment would be a breach of faith and might lead to serious retaliatory measures on the part of Canada, such as a log-export embargo, which would seriously injure the lumber and shingle mills of Washington, which are dependent on imports of cedar and fir logs for their raw material supply.

Senators BONE and SCHWELLENBACH by the use of the word "shall" in their amendment wish to make mandatory the provision in the trade agreement which authorizes the President to limit the imports of shingles to 25 percent of domestic consumption. But the proposal goes much further that this. They propose to split the year into two 6-month periods and limit importations in any 6-month period to the basis of the preceding 6 months.

In an industry such as the shingle industry, which is highly seasonal in character, importations in the busy 6 months would be limited to the basis of the preceding slack 6 months' period. Then in the following 6 months, when business was again poor, importations could be increased to 25 percent of the consumption during the preceding period when business was good, if the importers could get the necessary orders in a slack period, which would be extremely difficult and expensive, if not impossible.

In considering this matter it might be well to go back and consider the economic situation in the shingle industry in Washington, Oregon, and British Columbia. Shingles are manufactured from red-cedar logs. Red cedar grows in the forest intermingled with various other timber species, usually but a small percentage of the total cut in any logging operation being red cedar. The best quality of red cedar is found in the North. Stands to the South are of poorer quality. As a consequence, the best cedar timber is found in British Columbia. The most accessible stands of the better quality in Washington, particularly around Puget Sound, have been cut out.

Many American shingle mills which formerly secured their timber from nearby Puget Sound stands are now importing large quantities of cedar logs from British Columbia. In many instances mills not located on tidewater have been forced to suspend operations because of the serious depletion of cedar timber in Washington. It has been estimated that the total remaining stand of cedar in the State of Washington is sufficient for no more than 15 years of continued operation at the present rate of use, but the better grades will be exhausted in 10 years or less.

Shingles were put on the free list by the Underwood Tariff Act of 1913.

In 1921 a serious effort was made in the Fordney-McCumber tariff bill to impose a duty on shingles. It was overwhelmingly rejected by the Congress.

In July 1926, at the instance of domestic manufacturers of red-cedar shingles, the President of the United States ordered an investigation of the red-cedar shingle industry with a view to ascertaining conditions prevailing in the industry. The Tariff Commission made an exhaustive investigation of the competitive positions of the shingle-manufacturing industries in the United States and Canada. The Tariff Commission found no facts which would justify the imposition of a tariff on Canadian shingles imported into the United States. (See the report of the Tariff Commission to the President on red-cedar shingles, Feb. 27, 1927.)

A further appeal was made by the domestic manufacturers in the consideration of the tariff bill by the Congress in 1929 and 1930. Congress, after hearing all of the testimony and examining the evidence, quite overwhelmingly refused to impose a tariff on shingles.

When the National Recovery Act was passed, domestic shingle manufacturers saw an opportunity to use the act as a lever to exclude British Columbia shingles. Immediately upon passage of the act, the Red Cedar Shingle Bureau, an organization of the major part of the shingle industry in Washington, Oregon, and British Columbia, assembled in Seattle for the purpose of devising a code for the shingle industry. British Columbia manufacturers were invited to attend the meeting, but when they arrived there was some argument as to the propriety of their presence. After some discussion, the Canadians were asked to withdraw. Later the Canadian representatives were informed that the American manufacturers had decided to form a new association which would eliminate the British Columbia shingle manufacturers.

This was somewhat of an affront to the British Columbia manufacturers as they had for many years worked hand in hand with the better manufacturers of shingles in Washington and Oregon as members of the Red Cedar Shingle Bureau which had for its purpose the combating of antishingle ordinances and propaganda, promoting shingle trade, advertising, and other activities calculated to increase the demand for red-cedar shingles and during all these years shared the expense of developing and saving the American market for shingles.

British Columbia manufacturers, as members of the Red Cedar Shingle Bureau, meticulously cooperated in every possible way in the promotion and development of the shingle business in the United States. These manufacturers expected that when the code for the shingle industry was adopted, the association of long standing (the Red Cedar Shingle Bureau), would prepare the code and administer it. They expressed a willingness to participate and bind themselves to the N. R. A. and a code was prepared with that expectation in view.

However, the militant minority of the American industry, which desired the exclusion of the British Columbia shingles, obtained enough support to become a militant majority and they succceeded in forcing the formation of the new association to be known as the Washington and Oregon Shingle Association. This new association presented its code in the lumber and timber industries code and it was adopted.

British Columbia manufacturers cooperated in every possible way in maintaining the code, though they were not a part of it. In order to definitely limit imports and get them on a controlled-quota basis, an agrement was entered into between the Washington-Oregon Shingle Association and the Canadian manufacturers. There was considerable argument as to the size of the quota to be allotted to British Columbia manufacturers. The Americans wanted to arbitrarily assign them a quota of 20 percent of the consumption, although in the preceding 2 years the British Columbia manufacturers had supplied approximately 35 percent of consumption.

British Columbia manufacturers were not only willing, but anxious to cooperate in maintaining the code, but to have their market cut in two appealed to them as something in the nature of a dry bone thrown to the dog in view of the fact that they had been largely instrumental in developing the shingle market and saving it from the competition of substitute materials through their association work, contributions, and advertising.

Through the coercion of the Washington and Oregon manufacturers, the Canadians were compelled to sign an agreement to limit shipments to 20 percent but with a condition precedent that the American manufacturers were to provide the method of regulation so as to secure substantial equality and justice as between the various manufacturers. As a result, the domestic manufacturers requested the N. R. A. to approve the contract and put it in force.

The N. R. A. presented the matter to the Tariff Commission in 1934 for investigation and the facts with reference to the competition between Washington and Oregon and British Columbia manufacturers were carefully examined. Costs and other competitive factors were considered but no facts were found which would justify any tariff restriction on shingle imports. Inasmuch as the British Columbia manufacturers under the coercion of their American competitors had signed an agreement to limit exports, the Tariff Commission accepted the contract and made it official. But the Tariff Commission, on its own initiative, increased the quota 5 percent, making it 25 percent.

British Columbia manufacturers accepted and continued their voluntary cooperation, limiting their production and shipments to this basis and voluntarily increasing their wages to code levels on the shingles produced for the American market. They were enabled to exercise this control under the authority of the Canadian Marketing Act—a Canadian legislative act comparable in some

respects to the N. R. A. Under the terms of this act, which the Canadian shingle manufacturers voluntarily accepted to make possible their cooperation with the American lumber code, no exports of cedar shingles can be made from Canada without first securing a certificate from the agency established under the act.

At the termination of the N. R. A. on May 27, 1935, the Canadian Marketing Act was still in existence, and even during the time of the N. R. A. the Canadian Marketing Act was in existence. The lumber code had practically collapsed. The strike among the American shingle mills on the west coast which had not been able to ship American shingles for many months was resulting in rapid depletion of stocks of shingles in retail lumber yards. The matter was brought to the attention of Members of Congress, who intervened with N. R. A., and were informed by N. R. A. that under the circumstances they could not offer any objection to an increase in the shipments of shingles from Canada in order to save the situation.

As a result, contacts were made with the representatives of Canadian mills, and upon pleadings of dealers in the United States, the Canadian shippers increased their quota and rapidly took care of the situation, which was impossible of handling by the American mills. The action saved the day, and it was only upon agreement of protection that the Canadian mills agreed to increase their quota which had previously been agreed to. This is a very good example of what can happen if the American mills suddenly find themselves in the position of being unable to take care of the demand. With heavy increases reported in all lumber-producing territories, and with forecasts of estimated building of 200,000 homes during the next year, it is vitally important to consider whether the American mills can supply this demand without the aid of the British Columbia mills, over and above the 25-percent quota. If this quota is rigidly enforced and cannot be changed except through action of Congress, the supply would be limited, and naturally would result in heavily increased prices to the consumers and loss of business to the shingle manufacturers, to shingle substitutes and asphalt products.

After the settlement of the labor difficulties in Washington and Oregon, the British Columbia Shingle Marketing Authority resumed its control and maintains it today. They are attempting, and the individual manufacturers of shingles in Canada are cooperating in the attempt, to maintain Canadian shingle imports to the United States at a reasonable level of approximately 25 percent of the American consumption.

There has been no complaint that they have exceeded this figure. Ex-Senator Dill, testifying before the Senate Finance Committee, conceded that Canadian exports have been maintained below this figure. Ex-Senator Dill only emphasized the possibility that British Columbia might exceed the 25-percent quota after Congress had adjourned. There is absolutely no ground for this fear.

Canadian manufacturers are at this time voluntarily limiting their shipments for the sake of orderly marketing. If they should discontinue this policy and imports should increase to an unreasonable level over 25 percent of the domestic consumption, the President, as above stated, has in his power to invoke the limitation provided in the trade agreement.

The proposed control to be inaugurated if the amendment is enacted would take at least 6 months to place in operation. The Congress will have returned to Washington before that time has expired and will be able to deal directly with any problem which may arise in the unlikely event of excessive shipments from Canada.

Certainly the Congress would be ill-advised to enact legislation so out of spirit with the express terms of the trade agreement entered into by the President with the Canadian Government, on the mere possibility of the occurrence of an event which all past records indicate is extremely unlikely to happen.

It is proposed that the amendment of Senators JONES and SCHWELLENBACH shall be operated on the basis of statistics to be gathered by the Census Bureau of the shipment of shingles from mills in Washington and Oregon. They propose to take the figures thus gathered as being representative of the domestic consumption. While there could be no objection to the use of these figures, inasmuch as more exact figures would be impossible if not impracticable to obtain, there is no assurance that the census reports on which the totals would be based would be as comprehensive as the figures furnished by the import statistics. Every shingle imported into the United States is counted, but it would be almost impossible for the Census Bureau or any other agency to get as complete and accurate a record of the shipments (including local consumption of the many small backwoods shingle mills) which operate in some cases only a few weeks out of the year. If the Senators from Washington are sincere in their desire to get accurate and complete consumption statistics, it might be suggested that a statutory enactment specifically requiring complete reports from every manufacturer of shingles of his production, local sales, and shipments made periodically would be more likely to result in accurate total figures for consumption. Such a provision should be incorporated in the amendment if it is to be seriously considered.

Mr. KING. Mr. President, if the RECORD does not already so show, I will say, in behalf of the committee, that the amendment just offered by the Senator from Washington may be accepted and go to conference.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Washington [Mr. BONE].

The amendment was agreed to.

Mr. GEORGE. Mr. President, I have two amendments I desire to offer. The first amendment which I present relates to citizens doing business in the Philippine Islands. If unincorporated, a citizen who does business in the Philippine Islands is not subject to our Federal individual income-tax law; but if incorporated, he is subject to the corporation tax, and his competition with the German, French, Filipino, and Japanese in the islands is very greatly aggravated and increased. I offer the amendment for the sake of having it go to conference so that it may be there considered, although I do not commit myself to it.

Mr. KING. For that purpose only, I accept the amendment, so that it may go to conference.

The PRESIDENT pro tempore. The amendment will be stated.

The CHIEF CLERK. On page 201, line 13, after the word "another", it is proposed to strike out the period and to insert a comma and the following proviso:

Provided, however, That for the purposes of this paragraph, dividends received from a corporation, sociedad anonima, partnership, trade, or business, shall be deemed to be gross income derived from the active conduct of a trade or business, when such citizen is actively engaged in the conduct of such corporation, sociedad anonima, partnership, trade, or business.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

Mr. LA FOLLETTE. Mr. President, does the Senator from Utah state that he will accept the amendment so that it may go to conference for consideration?

Mr. GEORGE. Yes; I ask that it be taken to conference, without committing myself to it, but I think it has enough merit to be considered.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Georgia.

The amendment was agreed to.

Mr. GEORGE. Mr. President, I have an additional amendment. I wish to explain that this amendment was presented to the Finance Committee at a time when there was not a full attendance. I am not offering it as a committee amendment, but in my place as a Senator. I ask that it be taken to conference, in order that if it should be deemed proper that something may be done.

The amendment simply proposes to give to the payer of excise taxes the right to appeal to the Board of Tax Appeals, as in the case of estate taxes, income taxes, and all other taxes.

I realize that there are some objections to the amendment, but I should like to ask the acting chairman of the committee to let it go to conference, so that it may be there studied and, if found meritorious, that it may be placed in the bill.

The PRESIDENT pro tempore. The amendment offered by the Senator from Georgia will be stated.

The CHIEF CLERK. On page 272, after line 12, following the amendments heretofore agreed to, to insert the following:

SEC. 815. SECTION 700—REVIEW OF EXCISE-TAX DEFICIENCIES BY BOARD OF TAX APPEALS.

Deficiences in respect of taxes imposed by title IV of the Revenue Act of 1932 as amended shall from and after the enactment of this act be assessed, collected, and paid in the same manner and subject insofar as applicable to the same provisions of law as deficiencies in respect of taxes imposed by title I of this act.

Mr. KING. The amendment may be accepted and go to conference.

Mr. VANDENBERG. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. VANDENBERG. Is this the greatest deliberative body in the world?

Mr. KING. It is when the Senator is present. [Laughter.]

The PRESIDENT pro tempore. If there are no further amendments to be offered the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

Mr. McNARY. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Copeland	Lonergan	Russell
Austin	Couzens	Long	Schwellenbach
Bailey	Davis	McGill	Sheppard
Barbour	Donahey	McNary	Shipstead
Barkley	Duffy	Maloney	Steiwer
Benson	Fletcher	Moore	Thomas, Utah
Bilbo	George	Murphy	Townsend
Black	Gerry	Murray	Truman
Bone	Glass	Neely	Tydings
Brown	Hale	Norris	Vandenberg
Bulkley	Hatch	Nye	Van Nuys
Bulow	Hayden	O'Mahoney	Wagner
Byrnes	Holt	Overton	Walsh
Capper	Keyes	Pittman	Wheeler
Carey	King	Pope	White
Chavez	La Follette	Radcliffe	
Connally	Lewis	Reynolds	
Coolidge	Loftin	Robinson	

Mr. LEWIS. I announce the absence of the senior Senator from Tennessee [Mr. McKELLAR], the junior Senator from Tennessee [Mr. BACHMAN], the Senator from Missouri [Mr. CLARK], the Senator from Pennsylvania [Mr. GUFFEY], the junior Senator from Arkansas [Mrs. CARAWAY], the Senator from Nebraska [Mr. BURKE], the Senator from Indiana [Mr. MINTON], and the Senator from Wisconsin [Mr. DUFFY], who have been called away to attend the funeral of the late Speaker of the House of Representatives.

I also announce the absence, because of illness, of the Senator from Alabama [Mr. BANKHEAD], the Senator from Colorado [Mr. COSTIGAN], the Senator from Mississippi [Mr. HARRISON], and the Senator from Nevada [Mr. McCARRAN].

The Senators from Oklahoma [Mr. GORE and Mr. THOMAS], the Senator from Kentucky [Mr. LOGAN], the Senator from South Carolina [Mr. SMITH], and the Senator from California [Mr. McADOO] are necessarily detained.

I announce, also, the absence of my colleague the junior Senator from Illinois [Mr. DIETERICH], who is necessarily detained.

The PRESIDENT pro tempore. Sixty-nine Senators having answered to their names, a quorum is present. The bill having been read the third time, the question is, Shall the bill pass?

Mr. McNARY. On that question I call for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. HAYDEN (when Mr. ASHURST's name was called). The senior Senator from Arizona [Mr. ASHURST] is necessarily absent because of the death of his brother. If present, the Senator from Arizona would vote "yea."

Mr. BLACK (when his name was called). On this vote I have a pair with the junior Senator from Tennessee [Mr. BACHMAN]. If he were present, he would vote "yea", and if I were at liberty to vote I should vote "nay."

Mr. DAVIS (when his name was called). I have a general pair with the junior Senator from Kentucky [Mr. LOGAN], who, if present, I understand, would vote "yea." I transfer my pair with the junior Senator from Kentucky to the junior Senator from Vermont [Mr. GIBSON] and vote "nay." If the junior Senator from Vermont [Mr. GIBSON] were present, he would vote "nay."

Mr. LEWIS (when his name was called). Mr. President, I have insisted that the privilege of my motion to postpone the whole consideration of the measure and send it back to the committee should be reserved until——

Mr. ROBINSON. Mr. President, I rise to a point of order. Debate is not in order during a roll call.

The PRESIDENT pro tempore. The point of order is well taken.

Mr. LEWIS. I announce my pair with the senior Senator from North Dakota [Mr. FRAZIER]. I understand if he were present he would vote "yea." If I were at liberty to vote, I should vote "nay."

Mr. BARKLEY (when Mr. LOGAN's name was called). I announce the absence of my colleague the junior Senator from Kentucky [Mr. LOGAN], who is unavoidably detained. If present, he would vote "yea."

Mr. MALONEY (when his name was called). On this vote I have a pair with the junior Senator from Nebraska [Mr. BURKE]. If he were present, he would vote "yea", and if I were permitted to vote I should vote "nay."

Mr. McNARY (when his name was called). On this vote I have a pair with the senior Senator from Mississippi [Mr. HARRISON], who if present would vote "yea." I transfer my pair to the junior Senator from Rhode Island [Mr. METCALF] and vote "nay." If the junior Senator from Rhode Island [Mr. METCALF] were present, he would vote "nay."

Mr. RUSSELL (when his name was called). On this question I have a special pair with the junior Senator from Pennsylvania [Mr. GUFFEY]. If the Senator from Pennsylvania were present, he would vote "yea", and if I were at liberty to vote I should vote "nay." I withhold my vote.

Mr. TOWNSEND (when his name was called). I have a general pair with the senior Senator from Tennessee [Mr. McKELLAR]. If the Senator from Tennessee were present, he would vote "yea", and if I were at liberty to vote I should vote "nay." I withhold my vote.

The roll call was concluded.

Mr. AUSTIN. I announce the following pairs:

The Senator from Idaho [Mr. BORAH], who if present would vote "nay", with the Senator from California [Mr. McADOO], who if present would vote "yea."

The Senator from Delaware [Mr. HASTINGS], who if present would vote "nay", with the Senator from Indiana [Mr. MINTON], who if present would vote "yea."

The Senator from California [Mr. JOHNSON], who if present would vote "nay", with the Senator from Virginia [Mr. BYRD], who if present would vote "yea."

I also announce that the Senator from South Dakota [Mr. NORBECK] would vote "yea" if present.

The Senator from Rhode Island [Mr. METCALF] and the Senator from Iowa [Mr. DICKINSON] are necessarily absent. If present, these Senators would vote "nay."

Mr. BILBO. The Senator from Iowa [Mr. DICKINSON], with whom I am generally paired, is specially paired on this question with the Senator from Missouri [Mr. CLARK]. If present, the Senator from Iowa would vote "nay", and the Senator from Missouri would vote "yea." I am paired on this question with the Senator from Wisconsin [Mr. DUFFY]. If present, he would vote "yea", and if I were at liberty to vote I should vote "nay."

Mr. LEWIS. I announce the absence, because of illness, of the Senator from Alabama [Mr. BANKHEAD], the Senator from Colorado [Mr. COSTIGAN], the Senator from Mississippi [Mr. HARRISON], and the Senator from Nevada [Mr. McCARRAN].

The Senators from Oklahoma [Mr. GORE and Mr. THOMAS], the Senator from Virginia [Mr. BYRD], the Senator from South Carolina [Mr. SMITH], and the Senator from California [Mr. McADOO] are unavoidably detained.

The Senators from Tennessee [Mr. McKELLAR and Mr. BACHMAN], the Senator from Missouri [Mr. CLARK], the Senator from Pennsylvania [Mr. GUFFEY], the Senator from Arkansas [Mrs. CARAWAY], the Senator from Nebraska [Mr. BURKE], the Senator from Indiana [Mr. MINTON], the Senator from Wisconsin [Mr. DUFFY], the Senator from Vermont [Mr. GIBSON], and the Senator from North Dakota [Mr. FRAZIER] are absent in attendance upon the funeral of the late Speaker of the House of Representatives.

The Senator from Arkansas [Mrs. CARAWAY], who if present would vote "yea", is paired with the Senator from South Carolina [Mr. SMITH], who if present would vote "nay."

The Senator from Arizona [Mr. ASHURST] is paired with the Senator from Nevada [Mr. MCCARRAN]. If the Senator from Arizona were present, he would vote "yea" on the passage of the bill, and the Senator from Nevada, if present, would vote "nay."

My colleague the junior Senator from Illinois [Mr. DIETERICH] is necessarily detained. I am advised that if present and voting he would vote "yea."

The result was announced—yeas 38, nays 24, as follows:

YEAS—38

Bailey	Gerry	Murray	Schwellenbach
Barkley	Glass	Neely	Sheppard
Bone	Hatch	Norris	Thomas, Utah
Bulow	Hayden	O'Mahoney	Truman
Byrnes	King	Overton	Van Nuys
Chavez	La Follette	Pittman	Wagner
Connally	Loftin	Pope	Walsh
Coolidge	Lonergan	Radcliffe	Wheeler
Fletcher	Long	Reynolds	
George	McGill	Robinson	

NAYS—24

Adams	Capper	Hale	Nye
Austin	Carey	Holt	Shipstead
Barbour	Copeland	Keyes	Steiwer
Benson	Couzens	McNary	Tydings
Brown	Davis	Moore	Vandenberg
Bulkley	Donahey	Murphy	White

NOT VOTING—34

Ashurst	Clark	Harrison	Metcalf
Bachman	Costigan	Hastings	Minton
Bankhead	Dickinson	Johnson	Norbeck
Bilbo	Dieterich	Lewis	Russell
Black	Duffy	Logan	Smith
Borah	Frazier	McAdoo	Thomas, Okla.
Burke	Gibson	McCarran	Townsend
Byrd	Gore	McKellar	
Caraway	Guffey	Maloney	

So the bill was passed.

Mr. KING. Mr. President, I send to the desk a request for unanimous consent, which I ask to have read.

The PRESIDENT pro tempore. The proposed unanimous-consent agreement will be read.

The Chief Clerk read as follows:

I ask unanimous consent that in the engrossment of the amendments of the Senate to the bill H. R. 12395 the Secretary of the Senate be authorized to make such changes in the table of contents of the bill as may be necessary to make it conform to the action of the Senate on the bill, and that such changes be treated as one amendment.

The PRESIDENT pro tempore. Is there objection to the unanimous-consent agreement requested by the Senator from Utah? The Chair hears none, and it is so ordered.

Mr. KING. I also ask unanimous consent that House bill 12395, as passed by the Senate, be printed with the amendments of the Senate numbered.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KING. Mr. President, I move that the Senate insist upon its amendments, ask for a conference with the House thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the President pro tempore appointed Mr. KING, Mr. GEORGE, Mr. WALSH, Mr. BARKLEY, Mr. CONNALLY, Mr. COUZENS, Mr. KEYES, and Mr. LA FOLLETTE conferees on the part of the Senate.

Mr. COUZENS. Mr. President, feeling as I do about this tax bill, both as it passed the House and as it passed the Senate, I desire to resign as a conferee.

Mr. KEYES. Mr. President, sharing the feeling of the Senator from Michigan, I also prefer not to serve as a conferee.

Mr. McNARY. Mr. President, in view of that unexpected situation, I hope the conferees will not be appointed until tomorrow.

The PRESIDENT pro tempore. What is the pleasure of the Senator from Utah having charge of the bill with regard to the request of the Senator from Oregon?

Mr. McNARY. Mr. President, in view of the resignation as conferees of two members of the Finance Committee, I have asked that the appointment of conferees go over until tomorrow at our regular session. I should like to have an opportunity to consider the matter and to confer with the Senator from Arkansas [Mr. ROBINSON].

Mr. KING. I suppose the Senator is appealing for delay only in behalf of the Republican vacancies?

Mr. McNARY. Yes. I think the minority are entitled to some consideration.

Mr. KING. The acting chairman has not insisted that they should not receive consideration; and, acceding to the request of the Senator from Oregon, the matter of the further appointees may go over until tomorrow.

Mr. McNARY. I thank the Senator very much.

TAXATION OF INTOXICATING LIQUOR—CONFERENCE REPORT

Mr. KING submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9185) to insure the collection of the revenue on intoxicating liquor, to provide for the more efficient and economical administration and enforcement of the laws relating to the taxation of intoxicating liquor, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 55, 60, 77, 81, 85, 86, 102, 111, and 120.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 56, 57, 58, 59, 62, 63, 65, 66, 70, 71, 72, 73, 74, 75, 76, 78, 79, 80, 83, 84, 87, 90, 91, 92, 93, 94, 97, 98, 99, 100, 101, 103, 104, 105, 106, 107, 108, 109, 110, 112, 113, 114, 115, 116, 118, and 119; and agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "Act, as amended)"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 202. Section 3295 of the Revised Statutes, as amended (U. S. C., 1934 ed., title 26, sec. 1236), is further amended to read as follows:

" 'SEC. 3295. (a) Whenever an application is received for the removal from any Internal Revenue Bonded Warehouse of any cask or package of distilled spirits on which the tax has been paid, the storekeeper-gauger shall gauge and inspect the same, and shall, before such cask or package has left the warehouse, place upon such package such marks, brands, and stamps as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall by regulations prescribe, which marks, brands, and stamps shall be erased when such cask or package is emptied.' "

And the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with amendments as follows: On page 9 of the Senate engrossed amendments, in lines 7 and 8, strike out "heretofore or hereafter entered for deposit in a bonded warehouse" and in lieu thereof insert "heretofore entered for deposit in a distillery, general, or special bonded warehouse, or hereafter entered for deposit in an Internal Revenue Bonded Warehouse" and a comma; and on page 9 of the Senate engrossed amendments, in lines 12 and 13, strike out "heretofore or hereafter deposited in any bonded warehouse" and in lieu thereof insert "heretofore deposited in any distillery, general, or special bonded warehouse, or hereafter deposited in any Internal Revenue Bonded Warehouse" and a comma; and on page 12 of the Senate engrossed amendments, in line 23, before the period, insert a colon and the following: "*Provided*, That loss allowances for such spirits for the period prior to the effective date of this section shall be made pursuant to the provisions of the act of February 6, 1925 (43 Stat. 808)"; and on page 12 of the Senate engrossed amendments, in line 25, before the period, insert a colon and the following: "*Provided*, That a regauge to determine the losses to be allowed under subsection (c) shall be made prior to the effective date of this section"; and the Senate agree to the same.

Amendment numbered 61: That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "Once in every four years, or whenever"; and the Senate agree to the same.

Amendment numbered 64: That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(d) The brewery premises shall consist of the land and buildings described in the brewer's notice and shall be used solely

for the purposes of manufacturing beer, lager beer, ale, porter, and similar fermented malt liquors, cereal beverages containing less than one-half of 1 per centum of alcohol by volume, vitamins, ice, malt, and malt syrup; of drying spent grain from the brewery; of recovering carbon dioxide and yeast; and of storing bottles, packages, and supplies necessary or incidental to all such manufacture. The brewery bottling house shall be used solely for the purposes of bottling beer, lager beer, ale, porter, and similar fermented malt liquors, and cereal beverages containing less than one-half of 1 per centum of alcohol by volume. Notwithstanding the foregoing provisions, where any such brewery premises or brewery bottling house is, on the date of the enactment of the Liquor Tax Administration Act, being used by any brewer for purposes other than those herein described, or the brewery bottling house is, on such date, being used for the bottling of soft drinks, the use of the brewery and bottling house premises for such purposes may be continued by such brewer. The brewery bottling house of any brewery shall not be used for the bottling of the product of any other brewery. Any brewer who uses his brewery or bottling house contrary to the provisions of this subsection shall be fined not more than $50 with respect to each day upon which any such use occurs."

And the Senate agree to the same.

Amendment numbered 67: That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows: On page 23 of the Senate engrossed amendments, in line 12, after the word "wines" insert "on bonded winery premises or bonded storeroom premises"; and the Senate agree to the same.

Amendments numbered 68 and 69: That the House recede from its disagreement to the amendments of the Senate numbered 68, and 69, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by Senate amendments numbered 68 and 69, insert the following:

"(c) So much of section 611 of the Revenue Act of 1918, as amended (relating to the tax on still wines) (U. S. C., 1934 ed., title 26, sec. 1300 (a) (1)), as reads:

" 'On wines containing not more than 14 per centum of absolute alcohol, 10 cents per wine gallon, the per centum of alcohol under this section to be reckoned by volume and not by weight;

" 'On wines containing more than 14 per centum and not exceeding 21 per centum of absolute alcohol, 20 cents per wine gallon;

" 'On wines containing more than 21 per centum and not exceeding 24 per centum of absolute alcohol, 40 cents per wine gallon;'

"is amended to read as follows:

" 'On wines containing not more than 14 per centum of absolute alcohol, 5 cents per wine gallon, the per centum of alcohol under this section to be reckoned by volume and not by weight;

" 'On wines containing more than 14 per centum and not exceeding 21 per centum of absolute alcohol, 10 cents per wine-gallon;

" 'On wines containing more than 21 per centum and not exceeding 24 per centum of absolute alcohol, 20 cents per wine-gallon.'

"(d) Section 613 of the Revenue Act of 1918, as amended (U. S. C., 1934 ed., title 26, sec. 1300 (a) (2); U. S. C., 1934 ed., Supp. I, title 26, sec. 1300 (a) (2), is amended to read as follows:

" 'SEC. 613. (a) Upon the following articles which are produced in or imported into the United States, after the date of the enactment of the Liquor Tax Administration Act, or which on the day after such date or on any winery premises or other bonded premises or in transit thereto or at any customhouse, there shall be levied, collected, and paid, in lieu of the internal-revenue taxes imposed thereon by law prior to such date, taxes at rates as follows, when sold, or removed for consumption or sale:

" 'On each bottle or other container of champagne or sparkling wine, 2½ cents on each one-half pint or fraction thereof;

" 'On each bottle or other container of artificially carbonated wine, 1¼ cents on each one-half pint or fraction thereof;

" 'On each bottle or other container of liqueurs, cordials, or similar compounds, by whatever name sold or offered for sale, containing sweet wine, citrus-fruit wine, peach wine, cherry wine, berry wine, apricot wine, or apple wine, fortified, respectively, with grape brandy, citrus-fruit brandy, peach brandy, cherry brandy, berry brandy, apricot brandy, or apple brandy, 1¼ cents on each one-half pint or fraction thereof;

" 'Any of the foregoing articles containing more than 24 per centum of absolute alcohol by volume (except vermouth, liqueurs, cordials, and similar compounds made in rectifying plants and containing tax-paid sweet wine, citrus-fruit wine, peach wine, cherry wine, berry wine, apricot wine, or apple wine, fortified, respectively, with grape brandy, citrus-fruit brandy, peach brandy, cherry brandy, berry brandy, apricot brandy, or apple brandy) shall be classed as distilled spirits and shall be taxed accordingly.

" 'The Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized to remit, refund, and pay back the amount of all taxes on such liqueurs, cordials, and similar compounds paid by or assessed against rectifiers at the distilled spirits rate prior to the date of the enactment of the Liquor Tax Administration Act.' "

And the Senate agree to the same.

Amendment numbered 82: That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(g) Notwithstanding the forgoing provisions of this section, each person making sales of fermented malt liquor to the members, guests, or patrons of bona-fide fairs, reunions, picnics, carnivals, or other similar outings, and each fraternal, civic, church, labor, charitable, benevolent, or ex-service men's organization making sales of fermented malt liquor on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival, held by it, if such person or organization is not otherwise engaged in business as a dealer in malt liquors, shall pay, before any such sales are made and in lieu of the special tax imposed by subdivision (a) of this paragraph, a special tax of $2 as a retail dealer in malt liquors, for each calendar month in which any such sales are made."

And the Senate agree to the same.

Amendment numbered 88: That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert a comma and the following: "or was returned from such bottling house to the brewery in which made for use therein as brewing material"; and the Senate agree to the same.

Amendment numbered 89: That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(b) No such claim shall be allowed unless filed within 90 days after such destruction or return to the brewery for use as brewing material, or, in the case of any beer, lager beer, ale, porter, or other similar fermented malt liquor so destroyed or returned before the date of the enactment of this act, within 90 days after such date."

And the Senate agree to the same.

Amendment numbered 96: That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 330. The last paragraph of section 610 of the Revenue Act of 1918, as amended (U. S. C., 1934 ed., Supp. I, title 26, sec. 1310 (4)), is amended to read as follows:

" 'The provisions of the internal-revenue laws applicable to natural wine shall apply in the same manner and to the same extent to citrus-fruit wines, peach wines, cherry wines, berry wines, apricot wines, and apple wines, which are the products, respectively, of normal alcoholic fermentation of the juice of sound ripe (1) citrus-fruit (except lemons and limes), (2) peaches, (3) cherries, (4) berries, (5) apricots, or (6) apples, with or without the addition of dry cane, beet, or dextrose sugar (containing, respectively, not less than 95 per centum of actual sugar, calculated on a dry basis) for the purpose of perfecting the product according to standards, but without the addition or abstraction of other substances, except as may occur in the usual cellar treatment of clarifying or aging.' "

And the Senate agree to the same.

Amendment numbered 117: That the House recede from its disagreement to the amendment of the Senate numbered 117, and agree to the same with an amendment, as follows: In addition to inserting the matter proposed to be inserted by the Senate amendment, on page 48 of the House engrossed bill, in line 14, strike out "section" and in lieu thereof insert "paragraph"; and the Senate agree to the same.

Amendment numbered 121: That the House recede from its disagreement to the amendment of the Senate numbered 121, and agree to the same with an amendment, as follows: Omit the matter proposed to be inserted by the Senate amendment; and the Senate agree to the same.

Amendment numbered 122: That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment, as follows: Omit the matter proposed to be inserted by the Senate amendment; and the Senate agree to the same.

Amendment numbered 123: That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment, as follows: In the first line of said amendment strike out "404" and insert "402"; and the Senate agree to the same.

Amendment numbered 124: That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows: In the first line of said amendment strike out "405" and insert "403"; and the Senate agree to the same.

Amendment numbered 125: That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment, as follows: In the first line of said amendment strike out "406" and insert "404"; and the Senate agree to the same.

Amendment numbered 126: That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with amendments, as follows: In the first line of said amendment strike out "407" and insert "405"; and in the tenth line of said amendment strike out "distilled spirits other than alcohol" and in lieu thereof insert "spirits distilled at a registered distillery"; and the Senate agree to the same.

Amendment numbered 127: That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with amendments, as follows: In the first line of said amendment strike out "408" and insert "406"; and in the eleventh line of said amendment strike out "distilled spirits (other than alcohol)" and in lieu thereof insert "spirits distilled at a registered distillery"; and the Senate agree to the same.

Amendment numbered 128: That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with amendments, as follows: In the first line of said amendment strike out "409" and insert "407"; and in the fourth line of said amendment strike out "distilled spirits (other than alcohol)" and in lieu thereof insert "spirits distilled at a registered distillery"; and the Senate agree to the same.

Amendment numbered 129: That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with amendments, as follows: In the first line of said amendment strike out "410" and insert "408"; and in the last two lines of said amendment strike out "distilled spirits (other than alcohol)" and in lieu thereof insert "spirits distilled at a registered distillery"; and the Senate agree to the same.

Amendment numbered 130: That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment, as follows: In the first line of said amendment strike out "411" and insert "409"; and the Senate agree to the same.

Amendment numbered 131: That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment, as follows: In the first line of said amendment strike out "412" and insert "410"; and the Senate agree to the same.

Amendment numbered 132: That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with amendments, as follows: In the first line of said amendment strike out "413" and insert "411"; and in the seventeenth, eighteenth, and nineteenth lines of said amendment strike out "such period of time as the Commissioner, with the approval of the Secretary of the Treasury, shall prescribe" and in lieu thereof insert "a period of four years"; and the Senate agree to the same.

Amendment numbered 133: That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with amendments, as follows: In the first line of said amendment strike out "414" and insert "412"; and on page 52 of the Senate engrossed amendments, in lines 14, 15, and 16, strike out "such period of time as the Commissioner, with the approval of the Secretary of the Treasury, shall prescribe" and in lieu thereof insert "a period of four years"; and the Senate agree to the same.

Amendment numbered 134: That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment, as follows: In the first line of said amendment strike out "415" and insert "413"; and the Senate agree to the same.

Amendment numbered 135: That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment, as follows: In the first line of said amendment strike out "416" and insert "414"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill, and agree to the same.

The committee of conference report in disagreement amendments numbered 95 and 136.

WILLIAM H. KING,
ALBEN W. BARKLEY,
ROBERT M. LA FOLLETTE, JR.,
ARTHUR CAPPER,
Managers on the part of the Senate.

R. L. DOUGHTON,
SAM B. HILL,
THOS. H. CULLEN,
FRED M. VINSON,
FRANK H. BUCK,
FRANK CROWTHER,
DANIEL A. REED,
THOS. A. JENKINS,
Managers on the part of the House.

The report was agreed to.

Mr. KING. Mr. President, I desire to add, as supplemental to the conference report, that the senior Senator from Missouri [Mr. CLARK] has dissented from the report, and may desire to file minority views.

REPORT OF COUNSEL, SPECIAL COMMITTEE TO INVESTIGATE RECEIVERSHIP AND BANKRUPTCY PROCEEDINGS, ETC.

Mr. HAYDEN. From the Committee on Printing, I report back favorably without amendment Senate Resolution 308, and ask unanimous consent for its immediate consideration.

The PRESIDENT pro tempore. The resolution will be read.

The Chief Clerk read Senate Resolution 308, submitted by Mr. MCADOO on May 29, 1936, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the report of Percival E. Jackson, the legal counsel in New York, submitted to the special committee of the Senate appointed to make an investigation of the administration of bankruptcy and receivership proceedings and the administration of justice in the United States courts, be printed as a document.

COMPILATION OF FEDERAL LAWS RELATING TO VETERANS

Mr. HAYDEN. From the Committee on Printing, I report back favorably, without amendment, the joint resolution (H. J. Res. 583) authorizing the Veterans' Administration to prepare and publish a compilation of all Federal laws relating to veterans of wars of the United States; and I ask unanimous consent for its present consideration.

There being no objection, the joint resolution was considered, ordered to be engrossed for a third reading, read the third time, and passed.

AIR CORPS OF THE ARMY

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendment of the Senate to the bill (H. R. 11140) to provide more effectively for the national defense by further increasing the effectiveness and efficiency of the Air Corps of the Army of the United States, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. SHEPPARD. I move that the Senate insist on its amendment, agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the President pro tempore appointed Mr. SHEPPARD, Mr. FLETCHER, and Mr. CAREY conferees on the part of the Senate.

C. T. HIRD

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 3441) for the relief of C. T. Hird, which were, on page 1, line 8, after "him", to insert "for the year 1920"; and on page 1, line 11, after "limitation", to insert "although his claim had previously been timely made and rejected by the Bureau of Internal Revenue pending decision of the legality of the tax by several circuit courts of appeals which found it illegal."

Mr. MURPHY. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

JOHN WALKER

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 3371) for the relief of John Walker, which was, on page 1, line 10, after "reservation", to insert ", in the winter of 1933: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

Mr. WHEELER. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

JACOB KAISER

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 3956) for the relief of Jacob Kaiser, which was on page 1, line 7, to strike out "$500" and insert "$350".

Mr. WHEELER. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

AMENDMENT OF THE NAVY COMPOSITION ACT—CONFERENCE REPORT

Mr. WALSH submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5730) to amend section 3 (b) of an act entitled "An act to establish the composition of the United States Navy with respect to the categories of vessels limited by the treaties signed at Washington, February 6, 1922, and at London, April 22, 1930, at the limits prescribed by those treaties; to authorize the construction of certain naval vessels; and for other purposes", approved March 27, 1934, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, and 3.

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same.

DAVID I. WALSH,
MILLARD E. TYDINGS,
FREDERICK HALE,
Managers on the part of the Senate.
CARL VINSON,
P. H. DREWRY,
GEORGE P. DARROW,
Managers on the part of the House.

The motion was agreed to.

"MODERN MIRACLE"—ARTICLE BY REX BEACH

Mr. FLETCHER. Mr. President, I ask unanimous consent that there be printed as a public document a very excellent article appearing in the Cosmopolitan Magazine for June 1936, by Rex Beach, entitled "Modern Miracle."

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

NATIONAL PLANNING BOARD—AMENDMENT

Mr. O'MAHONEY submitted an amendment intended to be proposed by him to the bill (S. 2825) to provide for the establishment of a National Planning Board and the organization and functions thereof, which was referred to the Committee on Public Lands and Surveys and ordered to be printed.

REPORTS OF THE COMMITTEE TO AUDIT AND CONTROL THE CONTINGENT EXPENSES OF THE SENATE

Mr. BYRNES from the Committee to Audit and Control the Contingent Expenses of the Senate, to which were referred the following resolutions, reported them severally with an amendment:

S. Res. 227. Resolution continuing Senate Resolution 71, authorizing an investigation of interstate railroads and affiliates with respect to financing, reorganizations, mergers, and certain other matters;

S. Res. 282. Resolution increasing the limit of expenditures of the special committee to investigate the administration of receivership and bankruptcy proceedings in United States Courts;

S. Res. 299. Resolution increasing the expenditures, and directing the filing of a final report, in the matter of the investigation of the conservation of wild animal life; and

S. Res. 313. Resolution extending the authority for Senate Resolution 185, concerning expenditures by the Federal Government for cotton cooperatives, etc.

Mr. BYRNES also from the Committee to Audit and Control the Contingent Expenses of the Senate, to which were referred the following resolutions, reported them severally without amendment:

S. Res. 266. Resolution to investigate violations of the right of free speech and assembly and interference with the right of labor to organize and bargain collectively;

S. Res. 280. Resolution to pay a gratuity to Atala N. Lamar;

S. Res. 286. Resolution relative to the employment of Crampton Harris as attorney by the so-called Senate Lobby Investigation Committee;

S. Res. 297. Resolution to pay certain funeral expenses of the late Senator Park Trammell; and

S. Res. 315. Resolution increasing the limit of expenditures for the investigation of the production, transportation, and marketing of wool.

WORKS PROGRESS ADMINISTRATION IN WEST VIRGINIA

Mr. HOLT. Mr. President, I am sending to the desk to be printed in the RECORD two resolutions passed by the Council of the City of Wheeling and the County Commissioners of Ohio County, also a letter written by Robert Plummer, manager of the Wheeling district of the Works Progress Administration. It is very interesting to check the votes in the counties mentioned by Mr. Plummer. One will find, where the relief load was carried in Harrison, Marion, Preston, and Barbour Counties, that the Works Progress Administration slate had a much larger percentage of votes than in Ohio, Hancock, Brook, and Marshall, where the relief load was materially reduced.

Mr. Plummer's letter, coupled with a survey of the election figures, adds further proof that the Works Progress Administration has built a huge political machine in the State of West Virginia, and coupled with the letters and affidavits which I have presented, indicates that the workers were coerced into voting for the Works Progress Administration candidates in the recent primary.

It could not be just a strange coincidence that the records were so definite.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from West Virginia?

There being no objection, the matters were ordered to be printed in the RECORD, as follows:

After more than a month of effort I have at least succeeded in compiling a comparative statement showing the reduction in relief personnel of the Works Progress Administration in the 11 counties of the second district. The delay in this compilation was due, of course, to the week-to-week changes since this reduction has been under way, beginning in early April.

The result puts credulity to a severe strain. I feel that no person with fit sense of responsibility toward the needy relief workers of this district can avoid reaching the conclusion that most unfair discrimination has been made among the various counties, particularly those of the panhandle district, Hancock, Brooke, Ohio, and Marshall.

Here is what the figures show:

Ohio County since April 3 has suffered a reduction of 669 workers, leaving employed only 1,279 workers of a former total of 1,948, or a forced decrease of 34.3 percent.

In Hancock County the reduction for the same period was from 657 to 456, or 30.6 percent; in Brooke County, from 362 to 190, or 47.5 percent, and in Marshall County, from 823 to 622, or 24.4 percent.

Wetzel County, adjoining the panhandle section, was another to suffer a similarly heavy cut of 28.1 percent. Next comes Monongalia County with a reduction of 27.5 percent.

These figures are fairly unbelievable when compared with Harrison, Marion, Preston, Taylor, and Barbour Counties, with an average reduction of but 12.4 percent.

BORE 22.8 PERCENT OF CUT

One finds it difficult to believe that Ohio County has been made to bear 22.8 percent of the reduction for the entire district.

The hardship on the unemployment here has been made all the greater by the fact that Ohio County never was assigned its full work quota by some 260 men.

Based on district quota figures, issued from Fairmont in January, the local district is now exactly 940 workers short of what would be an effective relief program.

Compared to this, and estimated by means of this same quota, Harrison and Preston Counties, even today, have an excess over their quotas as originally announced. Marion County, too, is but 191 workers under quota.

There has been still another discrimination against this district and a most serious one. This is the low percentage of women workers assigned in Ohio County. Whereas this county, on May 23, has 551 women of first priority certified for work, the total employed is but 239. Until the recent flood brought this situation to the attention of State and National officials of the Works Progress Administration, the total women employed was but 159. Compare this percentage to that of Marion County, with, 414 eligible women workers and 288 at work, or Harrison County, with 560 eligibles and 286 at work most of the entire program.

You cannot but agree that employment of women relief workers is especially desirable. For one thing, the money they earn goes so unselfishly toward the support of dependents and, too, their opportunity for private employment in times of depression is far more restricted than for men workers. And the service of their projects in making clothing for destitute families and conducting feeding centers for undernourished families, meets a social need

more essential than repairing streets and roads. There can be no doubt that this district has not been taken care of adequately in the employment of women, a condition to be thoroughly deplored.

NO RELIEF

I sincerely trust that I need not remind you that these figures I have quoted do not represent dollars and cents. They stand for a casualty list of distressed victims of depression, heads of families in many cases hungry and shelterless, who have no place to turn for aid, not even to the State relief administration, which takes the attitude that the Works Progress Administration, having once assigned these persons to work, is responsible for their welfare until they find private employment. While we may deplore this shifting of duty on the part of the State, it is no help to these workers cut off from the meager wages that have been keeping them alive.

The local district may not have felt this drastic reduction so badly in the cases of single men without dependents, but here, too, there has been neglect toward those who were told they could be assigned to transient camps. Scores of these men have passed weeks awaiting some word or action on their applications. I am now advised that far more were removed from the Works Progress Administration rolls than the camps can possibly provide quarters.

Repeated inquiries and requests directed to Fairmont for some action in this matter have brought only form-letter regrets at such times when there has been any reply at all. Incidentally, many of these men are in no sense transients. Their homes are in Wheeling, and their only handicap is that in most cases they have reached an age at which mines, mills, or factories will not employ them. Certainly they are entitled to some consideration better than the heedless manner in which they were cut adrift with no provision made for those who cannot find work.

But far more tragic is the lot of those men with families who have received their dismissal notices from Fairmont. There can be no condoning the inroads which have been made into large family groups in the Panhandle district counties. It is not a pleasant sight to see grown men in tears, pleading desperately for their wives and children, asking frantically what they are to do, while knowing that much of this distress would have been avoided if the reduction you were called upon to make, and of which you had sole charge, had been fairly divided among the 11 counties of the district.

As the situation stands, and as these reports which have been quoted indisputably prove, there has been little or no reduction at all in some counties, while Ohio and neighboring counties have been made to bear the burden and face the stark problem of human suffering.

PROGRAM CRIPPLED

There will be still another consequence resulting from this local disparity, but in which I have less immediate concern. This is the crippling of the work program. Already we have been forced to suspend two operations, and other shut-downs will probably be necessary. The number of emergency projects has been substantially increased here since the flood, and there is now a general shortage of available workers. In the end this discrimination against the local workers will also mean discrimination against the communities in the number of projects that can be operated or that will be approved.

It is axiomatic that this particular section of the State rarely receives its due in the matter of governmental dispensations. This has come to be an accepted condition in many ways, but in this particular matter, with needy and destitute families affected, nothing less than fair treatment can be demanded.

Therefore, I feel it to be my solemn duty, as one of the few persons acquainted with what has occurred, to request in behalf of the employed of the local district a complete readjustment of this reduction, to the end that every unemployed and needy worker with a family group to support may be reassigned to work. If the reduction is changed to a basis of fair treatment among the various counties of the district, this can be done.

I cannot believe that you can afford to be left in the position of having been anything less than fair. Since the time the Wheeling area office opened under Mr. George W. Oldham in September of last year there have been many things take place from which one might draw quite positive conclusions that you were unfriendly toward this district, and office, and that one of your chief desires would be to have the latter closed. I am sure there have been many, many instances in which the importance of the Wheeling office has been demonstrated, particularly during the recent flood emergency, as you doubtless realize.

However, as long as such feeling would be confined to administrative heads and their activities, it might be regarded as of no great moment. But it becomes quite another kind of matter when the rights of unemployed workers are involved, and something altogether inimical to the spirit of the great humanitarian who has conceived this relief program and to whom every person placed in a position of responsibility owes allegiance.

I ask again that there be a prompt readjustment among the counties in this reduction, and that the many deserving family heads in this district who have been made the victims of this inequality, be returned to work.

CITY OF WHEELING,
Wheeling, W. Va., June 3, 1936.

Hon. RUSH D. HOLT, *Senator,*
Washington, D. C.

DEAR MR. HOLT: Attached herewith please find copy of a resolution presented at last night's council meeting by Attorney Russell B. Goodwin, one of our councilmen, which resolution was unanimously adopted.

Cutting down the force on the Works Progress Administration projects in this district is not only going to be a great hardship on the unemployed, but it is also going to cause lengthy delay on the 38 projects that have already been started, only 1 of which has been actually finished.

Some of these projects, which were started under the old E. R. A. over a year and a half ago, are not yet finished, and it certainly is causing a great hardship on the citizens living on the streets where the street and sewer jobs are under construction because they have been dragged out so long.

We have requested Mr. Robert L. Plummer, director of the Wheeling office of the Works Progress Administration, to put additional men on these jobs. He agrees with us that this should be done in order that the jobs could proceed more efficiently and quickly, but he is unable to do so because he does not have the labor.

The reduction in the work personnel in our local Works Progress Administration office is not only going to work a great hardship on both present and future projects in Wheeling and Ohio County, but it has caused a serious problem through unemployment.

We would appreciate it if you would give this matter your immediate attention and consideration with a view of giving this county some relief from this unfortunate situation.

Yours very truly,

H. J. HUMPHREY, *City Manager.*

At a meeting of the Council of the City of Wheeling on June 2, 1936, the following resolutions were adopted:

Whereas it has come to the attention of this body that a reduction in the number of employees of the Works Progress Administration has recently been effected, in which residents of this city and county were victims of obvious discrimination because of the number discharged here as compared to other counties under the administration of the Fairmont office of the Works Progress Administration; and

Whereas we believe that in administration of unemployment relief most scrupulous impartiality should be observed among various districts and everything possible done to avoid suspicion of political influence in favor of one district as against another; that the number of workers laid off in Ohio County as compared to Marion, Harrison, Taylor, Preston, and Barbour Counties is unreasonable, unfair, and unjust, and will cause great hardship and suffering among our needy and unemployed citizens, especially those with dependent families; and that the projects now under way will, in many instances, fail of completion; that this entire district will suffer in the apportionment of future work by the Works Progress Administration: Therefore be it

Resolved, That we respectfully petition our United States Senators and Representative in Congress, Hon. Harry L. Hopkins, Administrator of the Works Progress Administration, and Hon. F. Witcher McCullough, Administrator for the Works Progress Administration in West Virginia, for immediate readjustment of this disparity, to the end that the rights of our unemployed citizens may be protected; and

Resolved, That a copy of these resolutions be transmitted to these officials by the city manager, with the request that the matter be given immediate consideration.

RUSSELL B. GOODWIN.

I hereby certify that the foregoing is a true and exact copy of a resolution adopted by the Council of the City of Wheeling at a regular meeting, held June 2, 1936.

HOWARD C. LANE, *City Clerk.*

Be it remembered that at a regular meeting of the Board of Commissioners of the County of Ohio, W. Va., held in regular session on the 1st day of June 1936, among other proceedings the following was a part:

Commissioner Gavin presented the following resolution and moved its adoption:

Be it resolved by the Board of Commissioners of the County of Ohio, W. Va.—

Whereas it has come to the attention of this body that a reduction in the number of employees of the Works Progress Administration has recently been effected, in which residents of this county were victims of obvious discrimination because of the number discharged here, as compared to the reduction in other counties under the administration of the Fairmont office of the Works Progress Administration; and

Whereas we believe that in the administration of unemployment relief the most scrupulous impartiality should be observed among the various districts; that everything possible should be done to avoid any suspicion of political influence in favor of one district as against another; that the number of workers laid off in Ohio County as compared to Marion, Harrison, Taylor, Preston, and Barbour Counties, will cause great hardship and suffering among our needy and unemployed citizens, especially those with dependent families; that the projects now under way will in many instances fail of completion; that this entire district will suffer in the apportionment of future work by the Works Progress Administration, and that unemployed men and women of Ohio County will be denied opportunity for relief equal to that in more favored counties: Therefore be it

Resolved, That we respectfully petition our United States Senators and Representative in Congress, Hon. Harry L. Hopkins, Administrator of the Works Progress Administration, and Hon. F.

Witcher McCullough, administrator for the Works Progress Administration in West Virginia, to use their influence to secure prompt readjustment of this disparity among the various counties of this district to the end that justice may be done and the rights of our distressed citizens protected; and

Resolved, That a copy of these resolutions be transmitted to the officials indicated herein, with the request that the matter be given immediate consideration.

The foregoing resolution having been read by all members of the board, Commissioner Koller seconded the motion for the adoption of the said resolution.

Vote being called, Commissioners Gavin, Koller, and President Lally voted aye, and it was so ordered.

EDWARD J. LALLY, *President.*
ORION KOLLER, *Commissioner.*
THOMAS F. GAVIN, *Commissioner.*

A true copy teste:

I. T. KILLEEN, *Clerk.*

ORDER OF BUSINESS

Mr. ROBINSON. Mr. President, I ask unanimous consent that when the Senate completes its labors today it take a recess until 12 o'clock noon tomorrow, and that when the Senate convenes tomorrow it proceed to the consideration of unobjected bills on the calendar.

Mr. McNARY. Mr. President, may I supplement the request by the suggestion that we have a morning hour because of several matters on the desk which ought to be brought up?

Mr. ROBINSON. Very well. I modify the request and ask unanimous consent that when the Senate completes its labors today it adjourn until 12 o'clock noon tomorrow, and that upon the conclusion of the routine morning business tomorrow the Senate proceed to the consideration of unobjected bills on the calendar.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

EXECUTIVE SESSION

Mr. ROBINSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting a supplementary convention and sundry nominations (and withdrawing two nominations), which were referred to the appropriate committees.

(For nominations this day received and nominations withdrawn, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

Mr. PITTMAN, from the Committee on Foreign Relations, to which was referred Executive M, Seventy-first Congress, second session, a convention between the United States of America and His Majesty the King of Great Britain, Ireland, and the British Dominions beyond the Seas, Emperor of India, in respect of the Dominion of Canada, for the protection, preservation, and extension of the sockeye salmon fisheries of the Fraser River system, signed at Washington on May 26, 1930, reported it with the recommendation that the Senate advise and consent to the convention, subject to certain understandings to be made a part of the ratification, and submitted a report (Exec. Rept. 5) thereon.

He also, from the same committee, reported favorably the nominations of several officers in the Diplomatic and Foreign Service.

Mr. SHEPPARD, from the Committee on Military Affairs, reported favorably the nomination of Brig. Gen. James Kelly Parsons, United States Army, to be major general, from June 1, 1936, vice Maj. Gen. Johnson Hagood, United States Army, retired.

He also, from the same committee, reported favorably the nomination of Col. Lorenzo Dow Gasser, Infantry, to be brigadier general, vice Brig. Gen. James Kelly Parsons, United States Army, nominated for appointment as major general.

He also, from the same committee, reported favorably the nominations of sundry officers for promotion in the Regular Army.

He also, from the same committee, reported favorably the nominations of several officers for appointment, by transfer, in the Regular Army.

Mr. McGILL, from the Committee on the Judiciary, reported favorably the nomination of Herbert S. Phillips, of Florida, to be United States attorney for the southern district of Florida, vice John W. Holland, nominated to be United States district judge.

Mr. BURKE, from the Committee on the Judiciary, reported favorably the nomination of Benigno Fernandez Garcia, of Puerto Rico, to be attorney general of Puerto Rico.

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

Mr. TYDINGS, from the Committee on Territories and Insular Affairs, reported favorably the nomination of Charles M. Hite, of Hawaii, to be secretary of the Territory of Hawaii, vice Arthur A. Greene, deceased.

The PRESIDENT pro tempore. The reports will be placed on the Executive Calendar.

SALMON CONVENTION

Mr. COPELAND. Mr. President, may I ask the Presiding Officer, in his capacity as chairman of the Committee on Foreign Relations, whether it is his intention to bring up at this session for action the international convention respecting the sockeye salmon?

The PRESIDENT pro tempore. It is the desire of the chairman of the Committee on Foreign Relations to bring that convention before the Senate for action.

The clerk will state the first nomination on the calendar.

ROBERT LINCOLN O'BRIEN

The legislative clerk read the nomination of Robert Lincoln O'Brien, of Massachusetts, to be a member of the United States Tariff Commission.

Mr. WALSH. I ask that the nomination be confirmed.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

CLAUDE L. DRAPER

The legislative clerk read the nomination of Claude L. Draper, of Wyoming, to be a member of the Federal Power Commission.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

Mr. O'MAHONEY. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation.

Mr. McNARY. I have no objection.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the President will be notified.

MRS. BELLE D. BYRNE

The legislative clerk read the nomination of Mrs. Belle D. Byrne, of Bismarck, N. Dak., to be register of the land office at Bismarck.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

PUBLIC HEALTH SERVICE

The legislative clerk proceeded to read sundry nominations in the Public Health Service.

The PRESIDENT pro tempore. Without objection, the nominations are confirmed en bloc.

RUSSELL R. WAESCHE

The legislative clerk read the nomination of Russell R. Waesche, of Maryland, to be Commandant in the Coast Guard, with the rank of rear admiral.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

Mr. COPELAND. I ask unanimous consent that the President be notified of the confirmation.

The PRESIDENT pro tempore. Without objection, the President will be notified.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. ROBINSON. I ask that the nominations of postmasters be confirmed en bloc.

The PRESIDENT pro tempore. Without objection, the nominations of postmasters are confirmed en bloc.

IN THE NAVY

The legislative clerk read the nominations of Richard R. Bradley, Jr., and Clinton McKellar, Jr., to be ensigns in the Navy.

Mr. WALSH. Mr. President, I ask that the nominations be confirmed.

The PRESIDENT pro tempore. Without objection, the nominations are confirmed.

Mr. WALSH. I ask unanimous consent that the President be immediately notified of the confirmations.

The PRESIDENT pro tempore. Without objection, the President will be notified.

CHARLES M. HITE

Mr. TYDINGS. Mr. President, there has just been reported from the Committee on Territories and Insular Affairs the nomination of Charles M. Hite to be secretary of the Territory of Hawaii. I ask unanimous consent that the rule under which the nomination would have to lie over be not invoked, and that the nomination be considered immediately.

Mr. McNARY. Mr. President, may I ask the Senator whether the nomination was acted on by the committee today?

Mr. TYDINGS. The nomination was sent to the Senate only a day or so ago, and the situation in Hawaii makes it imperative that the nomination be confirmed, because if anything were to happen to the Governor there would be no acting Governor in the interim before a new Governor could be appointed, since the secretary, who would be the Acting Governor, has died.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Maryland for immediate consideration of the nomination? The Chair hears none, and, without objection, the nomination is confirmed.

Mr. TYDINGS. I ask that the President be immediately notified.

The PRESIDENT pro tempore. Without objection, the President will be notified.

HERBERT S. PHILLIPS

Mr. FLETCHER. Mr. President, I ask unanimous consent that the rule respecting such matters be waived and that the nomination of Herbert S. Phillips to be United States district attorney for the southern district of Florida, reported favorably by the Committee on the Judiciary, be confirmed.

The PRESIDENT pro tempore. Is there objection to the present consideration of the nomination? The Chair hears none, and the nomination is confirmed.

Mr. FLETCHER. I ask unanimous consent that the President be immediately notified.

The PRESIDENT pro tempore. Without objection, the President will be notified.

ADJOURNMENT

The Senate resumed legislative session.

Mr. ROBINSON. I move that the Senate adjourn until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 9 o'clock and 15 minutes p. m.) the Senate, under the order previously entered, adjourned until tomorrow, Saturday, June 6, 1936, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate June 5 (legislative day of June 1), 1936

MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Chester C. Davis, of Maryland, to be a member of the Board of Governors of the Federal Reserve System for the unexpired portion of the term of 8 years from February 1, 1936.

MEMBER OF THE BOARD OF DIRECTORS OF THE RECONSTRUCTION FINANCE CORPORATION

Emil Schram, of Illinois, to be a member of the board of directors of the Reconstruction Finance Corporation for the unexpired term of 2 years from January 22, 1936, vice Stephens, resigned.

STATE ADMINISTRATOR IN THE WORKS PROGRESS ADMINISTRATION FOR WASHINGTON

Don Abel, of Washington, to be State administrator in the Works Progress Administration for Washington, vice George H. Gannon.

STATE DIRECTORS OF THE PUBLIC WORKS ADMINISTRATION

William J. Maguire, of Rhode Island, to be State director of the Public Works Administration in Rhode Island.

Harold J. Lockwood, of New Hampshire, to be State director of the Public Works Administration in Maine, New Hampshire, and Vermont.

UNITED STATES ATTORNEY

John C. Lehr, of Michigan, to be United States attorney, eastern district of Michigan, vice Gregory H. Frederick, term expired.

UNITED STATES MARSHAL

Frank C. Blackford, of New York, to be United States marshal for the western district of New York, vice Joseph Fritsch, Jr., term expired.

PROMOTIONS IN THE NAVY

MARINE CORPS

Lt. Col. David M. Randall to be a colonel in the Marine Corps from the 29th day of May 1936.

Maj. Graves B. Erskine to be a lieutenant colonel in the Marine Corps from the 1st day of March 1936.

The following-named captains to be majors in the Marine Corps from the 29th day of May 1936:

Joseph H. Fellows
Louis G. DeHaven
Lester A. Dessez

The following-named first lieutenants to be captains in the Marine Corps from the 29th day of May 1936:

Lionel C. Goudeau	Hawley C. Waterman
Alfred R. Pefley	James O. Brauer
John H. Stillman	Thomas C. Green

The following-named first lieutenants to be captains in the Marine Corps from the 1st day of June 1936:

Andrew J. Mathiesen	Verne J. McCaul
Joseph C. Burger	Leslie F. Narum
Calvin R. Freeman	

The following-named second lieutenants to be first lieutenants in the Marine Corps from the 1st day of June 1936:

Sidney S. Wade	James M. Masters, Jr.
Guy M. Morrow	William A. Kengla
Paul E. Wallace	Wilbur J. McNenny
James F. Climie	Robert O. Bowen
Edward E. Authier	James L. Beam
David S. McDougal	Joslyn R. Bailey
Nixon L. Ballard	James Rockwell
Marshall A. Tyler	Ethridge C. Best
Theodore C. Turnage, Jr.	

POSTMASTERS

ALABAMA

John P. Cox to be postmaster at Collinsville, Ala., in place of D. B. Crow. Incumbent's commission expired April 4, 1936.

Lucile W. Hereford to be postmaster at New Market, Ala. Office becomes Presidential July 1, 1936.

Frank Poole to be postmaster at Wetumpka, Ala., in place of F. D. Perkins. Incumbent's commission expired January 23, 1935.

CALIFORNIA

Blanche E. White to be postmaster at Chatsworth, Calif. Office becomes Presidential July 1, 1936.

Walter L. Murphy to be postmaster at Sonoma, Calif., in place of M. C. Stofen. Incumbent's commission expired January 9, 1936.

COLORADO

Bailey M. Wells to be postmaster at Campo, Colo., in place of J. M. Miller. Incumbent's commission expired April 4, 1936.

IDAHO

Gladys A. Johnson to be postmaster at Prichard, Idaho. Office becomes Presidential July 1, 1936.

Marie E. McCarty to be postmaster at Plummer, Idaho, in place of A. O. Holmes. Incumbent's commission expired May 3, 1936.

ILLINOIS

Paul Therien to be postmaster at Momence, Ill., in place of Lester Cromwell. Incumbent's commission expired December 18, 1934.

George E. Kull to be postmaster at Strasburg, Ill. Office becomes Presidential July 1, 1936.

Frank F. Lietz to be postmaster at Buckley, Ill., in place of W. F. Lammers. Incumbent's commission expired March 17, 1936.

Clara Belle Pevehouse to be postmaster at Clayton, Ill., in place of H. M. Bennett. Incumbent's commission expired February 9, 1936.

Claude Wilson Pyle to be postmaster at Sidell, Ill., in place of J. R. Atkinson. Incumbent's commission expired March 17, 1936.

Frank B. Laking to be postmaster at Grant Park, Ill., in place of J. R. Hanlon. Incumbent's commission expired February 9, 1936.

Charles J. Ator to be postmaster at Jacksonville, Ill., in place of W. A. Fay. Incumbent's commission expired March 2, 1935.

INDIANA

Henry E. White to be postmaster at Franklin, Ind., in place of G. F. Freeman. Incumbent's commission expired February 5, 1936.

Joe C. Hoopingarner to be postmaster at Rockville, Ind., in place of F. B. Harding. Incumbent's commission expired January 9, 1936.

IOWA

Ora F. Ward to be postmaster at Dallas Center, Iowa, in place of E. A. Rhinehart. Incumbent's commission expired January 12, 1936.

Edgar V. Pohlman to be postmaster at Melvin, Iowa, in place of P. M. Kraft. Incumbent's commission expires June 10, 1936.

Oliver Van Syoc to be postmaster at Milo, Iowa. Office becomes Presidential July 1, 1936.

Harold H. Johnson to be postmaster at Mondamin, Iowa, in place of J. E. Klutts. Incumbent's commission expired March 17, 1936.

Arthur R. Otto to be postmaster at Bettendorf, Iowa, in place of R. W. Petersen. Incumbent's commission expired January 27, 1936.

William T. Oakes to be postmaster at Clinton, Iowa, in place of O. H. Henningsen. Incumbent's commission expires July 13, 1936.

Leonard A. Moran to be postmaster at Granger, Iowa. Office becomes Presidential July 1, 1936.

Mary M. Hollingsworth to be postmaster at Marion, Iowa, in place of A. E. Granger. Incumbent's commission expired February 19, 1936.

Robert C. Campbell to be postmaster at Mount Pleasant, Iowa, in place of C. S. Rogers. Incumbent's commission expired January 12, 1936.

Glenn C. Bowdish to be postmaster at Springville, Iowa, in place of Ralph Hunte. Incumbent's commission expired April 27, 1936.

Lester P. Sauser to be postmaster at Worthington, Iowa. Office becomes Presidential July 1, 1936.

Leona B. Miller to be postmaster at Van Meter, Iowa. Office becomes Presidential July 1, 1936.

KENTUCKY

Joseph P. Gozder to be postmaster at Campbellsville, Ky., in place of E. A. Ellis. Incumbent's commission expired January 27, 1936.

Daniel S. Mitchell to be postmaster at Crofton, Ky., in place of J. M. Burkholder, deceased.

Henry Roe Thompson Kinnaird to be postmaster at Edmonton, Ky., in place of Ruth VanZant. Incumbent's commission expired May 19, 1936.

Raymond E. Doyle to be postmaster at Glasgow Junction, Ky. Office becomes Presidential July 1, 1936.

Roy Fraim to be postmaster at Alva, Ky., in place of Roy Fraim. Incumbent's commission expired January 27, 1936.

Vallette McClintock to be postmaster at Paris, Ky., in place of C. O. Wilmoth. Incumbent's commission expired April 5, 1936.

MARYLAND

Mattie Grace Rambo to be postmaster at Sudlersville, Md., in place of G. W. Stevens. Incumbent's commission expired January 11, 1936.

Mayme B. Boulden to be postmaster at Cecilton, Md., in place of W. A. Brown. Incumbent's commission expired April 12, 1936.

John Mercer Terrell to be postmaster at Elkton, Md., in place of G. M. Evans. Incumbent's commission expired January 22, 1935.

Nina Amelia Calvert to be postmaster at Perryville, Md., in place of E. H. Owens. Incumbent's commission expired April 27, 1936.

Raymond L. Westerfield to be postmaster at Port Deposit, Md., in place of A. M. Vanneman. Incumbent's commission expired June 4, 1934.

MASSACHUSETTS

Stephen W. Bartlett to be postmaster at Barnstable, Mass., in place of W. P. Lovejoy. Incumbent's commission expired April 12, 1936.

F. Thomas Ellis to be postmaster at Brewster, Mass., in place of H. T. Crocker. Incumbent's commission expired March 8, 1934.

John E. Little to be postmaster at Island Creek, Mass. Office becomes Presidential July 1, 1936.

James A. Murphy to be postmaster at New Bedford, Mass., in place of Harold Winslow. Incumbent's commission expired January 27, 1936.

Gertrude H. Mortimore to be postmaster at Russell, Mass. Office becomes Presidential July 1, 1936.

James Everett Marvelle to be postmaster at Wareham, Mass., in place of B. E. Robinson. Incumbent's commission expired January 27, 1936.

Thomas E. Hynes to be postmaster at Wayland, Mass., in place of T. E. Hynes. Incumbent's commission expired January 27, 1936.

Vincent C. Ambrose to be postmaster at Winchester, Mass., in place of G. H. Lochman. Incumbent's commission expired January 23, 1935.

James R. Delaney to be postmaster at Dedham, Mass., in place of J. R. Delaney. Incumbent's commission expired January 9, 1936.

Mae E. McLaughlin to be postmaster at Onset, Mass., in place of A. K. Adams. Incumbent's commission expired April 27, 1936.

Raymond T. Mulvaney to be postmaster at Shrewsbury, Mass., in place of M. H. Hickey. Incumbent's commission expired February 27, 1935.

MICHIGAN

James Kent Torrey to be postmaster at Dowagiac, Mich., in place of B. E. Paul, retired.

Harold H. Mickle to be postmaster at Homer, Mich., in place of J. D. Watson. Incumbent's commission expired February 14, 1935.

Gordon M. Gould to be postmaster at Lawrence, Mich., in place of M. W. Thomas, removed.

Alfred C. Maurer to be postmaster at Monroe, Mich., in place of M. L. Osgood. Incumbent's commission expired February 5, 1936.

Frank L. Thome to be postmaster at St. Johns, Mich., in place of W. G. Wykoff. Incumbent's commission expired January 25, 1936.

Joseph L. Winslow to be postmaster at Alma, Mich., in place of F. O. Parker. Incumbent's commission expired July 3, 1934.

Stanley J. Risk to be postmaster at Muskegon, Mich., in place of Lincoln Rodgers. Incumbent's commission expired January 25, 1936.

MINNESOTA

Joe M. Licari to be postmaster at Biwabik, Minn., in place of C. H. Schuster. Incumbent's commission expired April 27, 1936.

John S. Stensrud to be postmaster at Canby, Minn., in place of J. S. Stensrud. Incumbent's commission expired February 24, 1936.

Mae Kirwin to be postmaster at Chokio, Minn., in place of Mae Kirwin. Incumbent's commission expired April 27, 1936.

Fred A. Gerber to be postmaster at Donnelly, Minn., in place of L. F. Hodgson. Incumbent's commission expired February 9, 1936.

Emma Jones to be postmaster at Gonvick, Minn., in place of H. O. Halverson. Incumbent's commission expired April 12, 1936.

Carl A. Smaby to be postmaster at Halstad, Minn., in place of N. O. Strommen. Incumbent's commission expired March 31, 1936.

Hans P. Becken to be postmaster at Hanska, Minn., in place of H. P. Becken. Incumbent's commission expired April 12, 1936.

Earl P. Brackin to be postmaster at Herman, Minn., in place of C. E. Cater, Jr., resigned.

Edward J. Farrell to be postmaster at Marietta, Minn., in place of O. E. Nelson. Incumbent's commission expired February 24, 1936.

Fred C. Keith to be postmaster at Princeton, Minn., in place of H. E. Milbrath, transferred.

William F. Priem to be postmaster at Bellingham, Minn., in place of W. F. Priem. Incumbent's commission expired April 12, 1936.

Edwin Silver to be postmaster at Granite Falls, Minn., in place of E. B. Whitney. Incumbent's commission expired March 17, 1936.

John E. Doyle to be postmaster at Lake Benton, Minn., in place of John Briffett. Incumbent's commission expired February 17, 1936.

George W. Strand to be postmaster at Taylors Falls, Minn., in place of L. S. Lundberg. Incumbent's commission expired May 19, 1936.

MISSOURI

Barbara L. McLin to be postmaster at Willard, Mo. Office becomes Presidential July 1, 1936.

Velma B. Watt to be postmaster at Green City, Mo., in place of W. W. Shoop. Incumbent's commission expired March 29, 1936.

Shelby Feely to be postmaster at Shelbyville, Mo., in place of H. H. Forman. Incumbent's commission expired April 27, 1936.

NEBRASKA

George M. Gaskill to be postmaster at Albion, Nebr., in place of W. S. Burrows, transferred.

Justin Clay Douthitt to be postmaster at Beatrice, Nebr., in place of Adam McMullen. Incumbent's commission expires June 15, 1936.

Given G. Reber to be postmaster at Naper, Nebr., in place of G. G. Reber. Incumbent's commission expired April 27, 1936.

Leonard L. Rook to be postmaster at Stratton, Nebr., in place of M. A. Gordon. Incumbent's commission expired May 23, 1936.

Leora E. Bowley to be postmaster at Taylor, Nebr. Office becomes Presidential July 1, 1936.

Harry E. Christensen to be postmaster at Valparaiso, Nebr., in place of Carl Carlson. Incumbent's commission expired May 23, 1936.

Floyd A. Garrett to be postmaster at Whitman, Nebr. Office becomes Presidential July 1, 1936.

Alfred A. Ristow to be postmaster at Scribner, Nebr., in place of C. M. Steil. Incumbent's commission expired February 5, 1936.

NEW JERSEY

Lemuel E. Miller, Jr., to be postmaster at Cape May, N. J., in place of J. E. Chambers, deceased.

J. Field Garretson to be postmaster at Zarephath, N. J., in place of Louis Meretta. Incumbent's commission expired December 20, 1932.

Leo S. Swanwick to be postmaster at West New York, N. J., in place of H. H. Ahlers. Incumbent's commission expired February 9, 1936.

NEW YORK

Frances K. Jude to be postmaster at Angelica, N. Y., in place of R. B. Mott. Incumbent's commission expired January 18, 1936.

Edward C. Laughlin to be postmaster at Akron, N. Y., in place of R. C. Downey. Incumbent's commission expired February 17, 1936.

Otis J. West to be postmaster at Bayville, N. Y., in place of R. W. Schoverling. Incumbent's commission expired February 17, 1936.

Joseph F. Murphy to be postmaster at Beacon, N. Y., in place of E. F. Cummings. Incumbent's commission expired February 24, 1936.

William L. Divver to be postmaster at Cedarhurst, N. Y., in place of J. C. McNicoll. Incumbent's commission expired March 22, 1936.

Katherine M. Raps to be postmaster at Clarence Center, N. Y., in place of C. A. Bratt. Incumbent's commission expired January 27, 1936.

Lee R. Smith to be postmaster at Hammond, N. Y., in place of E. E. Rodger. Incumbent's commission expired February 17, 1936.

Abner B. Woodworth to be postmaster at Hensonville, N. Y., in place of W. J. Pelham. Incumbent's commission expired February 17, 1936.

Allen M. Nesbitt to be postmaster at Jordan, N. Y., in place of J. R. Cowell. Incumbent's commission expired February 17, 1936.

Frank McBriarty to be postmaster at Loomis, N. Y., in place of V. M. Hill. Incumbent's commission expired February 17, 1936.

Willis Meabon to be postmaster at Sherman, N. Y., in place of F. A. Erickson. Incumbent's commission expired February 17, 1936.

Daniel F. Sullivan to be postmaster at Winthrop, N. Y., in place of A. J. Folsom. Incumbent's commission expired February 17, 1936.

John F. McGrath to be postmaster at Auburn, N. Y., in place of T. C. Richardson. Incumbent's commission expired April 12, 1936. (Removed without prejudice.)

John R. Clements to be postmaster at Bible School Park, N. Y., in place of E. L. Sinclair. Incumbent's commission expired December 16, 1933.

Eva M. Wood to be postmaster at Elbridge, N. Y., in place of G. F. Carpenter. Incumbent's commission expired February 17, 1936.

Alice L. Lyon to be postmaster at Fort Ann, N. Y., in place of W. A. Pierce. Incumbent's commission expired February 17, 1936.

Peter J. Daub to be postmaster at Hewlett, N. Y., in place of C. E. Craig. Incumbent's commission expired March 23, 1936.

Antoinette Ducharme to be postmaster at Lyon Mountain, N. Y., in place of C. L. Stackpole. Incumbent's commission expired January 27, 1936.

Thomas J. Fay to be postmaster at Massena, N. Y., in place of E. G. Fisher. Incumbent's commission expired March 23, 1936.

John Kenneth Hoffman to be postmaster at Old Forge, N. Y., in place of P. W. Burdick, removed.

Robert L. Molyneux to be postmaster at Ransomville, N. Y., in place of J. E. Uline, deceased.

Irma R. Bennett to be postmaster at Ripley, N. Y., in place of P. J. Johnson. Incumbent's commission expired February 17, 1936.

Fred Schweickhard to be postmaster at Rushville, N. Y., in place of M. C. Headley. Incumbent's commission expired February 17, 1936.

Anna Fallon to be postmaster at Setauket, N. Y., in place of E. F. Tyler. Incumbent's commission expired January 18, 1936.

Americo Masucci to be postmaster at Sparkill, N. Y., in place of W. M. Ackerman. Incumbent's commission expired February 17, 1936.

William Henry Nolan to be postmaster at Stillwater, N. Y., in place of C. S. Hoskins. Incumbent's commission expired February 17, 1936.

Claude K. Cooper to be postmaster at Williamson, N. Y., in place of John De Frine. Incumbent's commission expired February 17, 1936.

Glen S. McBratney to be postmaster at Heuvelton, N. Y., in place of C. H. Preston. Incumbent's commission expired April 12, 1936.

NORTH DAKOTA

Claude L. Arildson to be postmaster at Alexander, N. Dak., in place of Marie Toenberg. Incumbent's commission expired April 12, 1936.

Chris Bertsch to be postmaster at Bismarck, N. Dak., in place of W. A. Sather. Incumbent's commission expired March 10, 1936.

Arthur C. Pagenkopf to be postmaster at Dickinson, N. Dak., in place of W. H. Lenneville. Incumbent's commission expired April 27, 1936.

Arthur E. Bean to be postmaster at Donnybrook, N. Dak., in place of Nellie Ribb. Incumbent's commission expired March 10, 1936.

Joseph M. Moem to be postmaster at Galesburg, N. Dak. Office becomes Presidential July 1, 1936.

Louis F. Ellsworth to be postmaster at Forman, N. Dak., in place of R. E. Hurly. Incumbent's commission expired January 13, 1935.

Mary T. Ness to be postmaster at Grand Forks, N. Dak., in place of J. H. McNicol. Incumbent's commission expired April 5, 1936.

Ethel J. Hinschberger to be postmaster at Sanborn, N. Dak. Office becomes Presidential July 1, 1936.

Anna F. Jones to be postmaster at Verona, N. Dak. Office becomes Presidential July 1, 1936.

OHIO

Paul C. Patterson to be postmaster at East Sparta, Ohio, in place of L. W. Hall. Incumbent's commission expired January 7, 1936.

Cleo B. Brockman to be postmaster at Fort Jennings, Ohio, in place of C. M. Rose, transferred.

Myron G. Swaller to be postmaster at Navarre, Ohio, in place of E. H. Garver. Incumbent's commission expired May 3, 1936.

Mahara D. Barns to be postmaster at Wilmington, Ohio, in place of W. F. Hains. Incumbent's commission expired February 4, 1935.

Orville R. Bently to be postmaster at Bay Village, Ohio, in place of R. O. Cady. Incumbent's commission expired January 7, 1936.

Viola L. Wisnieski to be postmaster at Independence, Ohio, in place of W. F. Kubicek. Incumbent's commission expired June 1, 1936.

Homer W. Rider to be postmaster at Spencerville, Ohio, in place of R. A. Medaugh. Incumbent's commission expires July 15, 1936.

Hattie E. Lewis to be postmaster at Greenwich, Ohio, in place of W. H. Noble. Incumbent's commission expired January 7, 1936.

Otto K. Evers to be postmaster at Napoleon, Ohio, in place of R. H. Curdes. Incumbent's commission expired March 23, 1936.

OKLAHOMA

William F. Hughes to be postmaster at Bokchito, Okla., in place of R. J. Miller. Incumbent's commission expired February 5, 1936.

Buford E. Stone to be postmaster at Manchester, Okla. Office became Presidential July 1, 1935.

Oliver H. Graham to be postmaster at Dustin, Okla., in place of Edith White, removed.

OREGON

Andrew J. Boe to be postmaster at Parkdale, Oreg., in place of H. R. McIsaac. Incumbent's commission expired January 26, 1936.

PENNSYLVANIA

Philip Joseph McNally, to be postmaster at Aliquippa, Pa., in place of W. R. Troxel. Incumbent's commission expired June 1, 1936.

Alexander Rankin to be postmaster at McKeesport, Pa., in place of J. J. Haughey, deceased.

J. Merrell Mattern to be postmaster at Mars, Pa., in place of P. L. Boyd. Incumbent's commission expired June 1, 1936.

Charles S. Shaw to be postmaster at Waterford, Pa., in place of C. W. Schlosser. Incumbent's commission expired May 2, 1934. (Removed without prejudice.)

John G. Lefever to be postmaster at Boyertown, Pa., in place of L. E. Mayer. Incumbent's commission expired May 10, 1936.

James A. Modey to be postmaster at Creighton, Pa., in place of B. S. Kuns. Incumbent's commission expired May 19, 1936.

Edna M. Transus to be postmaster at Delaware Water Gap, Pa., in place of J. E. Young. Incumbent's commission expires June 28, 1936.

Helen P. Harter to be postmaster at Laurelton, Pa. Office becomes Presidential July 1, 1936.

Charles G. Kleckner to be postmaster at Millmont, Pa. Office becomes Presidential July 1, 1936.

Edgar L. Ely to be postmaster at Polk, Pa., in place of W. H. McKinley. Incumbent's commission expired February 25, 1935.

John T. Grady to be postmaster at Tobyhanna, Pa. Office becomes Presidential July 1, 1936.

John B. Brennen to be postmaster at Wilcox, Pa., in place of C. H. Borgeson. Incumbent's commission expired February 10, 1936.

Ralph L. Bell to be postmaster at Burgettstown, Pa., in place of W. M. Culley. Incumbent's commission expired February 10, 1936.

John A. O'Donovan to be postmaster at Coraopolis, Pa., in place of E. R. Dithrich. Incumbent's commission expired May 19, 1936.

Walter E. Snyder to be postmaster at Lykens, Pa., in place of C. W. Keiser. Incumbent's commission expires June 10, 1936.

Ruth Elizabeth Mackley to be postmaster at Manheim, Pa., in place of J. L. Coldren. Incumbent's commission expired February 10, 1936.

Harry E. Merritt to be postmaster at Ulysses, Pa., in place of W. D. Lewis. Incumbent's commission expired June 1, 1936.

James P. Monahan to be postmaster at St. Clair, Pa., in place of W. T. Collihan, removed.

PUERTO RICO

Jose Alejandro Principe to be postmaster at Juncos, P. R., in place of Antonio Molira, resigned.

Enrique Rossy to be postmaster at San German, P. R., in place of H. R. O'Neill, deceased.

SOUTH CAROLINA

Amelia B. Blackmon to be postmaster at Orangeburg, S. C., in place of E. H. Blackmon, deceased.

SOUTH DAKOTA

Joseph E. Kurka to be postmaster at Custer, S. Dak., in place of L. W. Willis, resigned.

Eugene L. Bangs to be postmaster at Rapid City, S. Dak., in place of William Zwicky. Incumbent's commission expired February 8, 1936.

TENNESSEE

Lindsay N. Smith to be postmaster at Culleoka, Tenn., Office becomes Presidential July 1, 1936.

Thaddeus C. Haley to be postmaster at Friendship, Tenn., in place of S. H. Bedwell. Incumbent's commission expired February 5, 1936.

Edgar D. Hagan to be postmaster at Redboiling Springs, Tenn., in place of C. C. Davis. Incumbent's commission expired June 11, 1936.

TEXAS

George S. Brownell to be postmaster at Charlotte, Tex. Office becomes Presidential July 1, 1936.

Jerome H. Moyers to be postmaster at Ferris, Tex., in place of R. F. Myers. Incumbent's commission expired April 4, 1936.

Henry F. Priesmeyer to be postmaster at Garwood, Tex. Office becomes Presidential July 1, 1936.

Corinne H. Sewell to be postmaster at Pearsall, Tex., in place of J. R. Davis, removed.

Naomi M. Lewis to be postmaster at Royalty, Tex. Office becomes Presidential July 1, 1936.

Walter E. McRee to be postmaster at Eagle Lake, Tex., in place of A. L. Wahrmund. Incumbent's commission expired January 26, 1936.

Jimmie L. Holford to be postmaster at Hico, Tex., in place of J. V. Lackey. Incumbent's commission expired March 10, 1936.

VIRGINIA

Alexander H. Cave to be postmaster at Madison, Va., in place of E. C. Hay, deceased.

Benjamin Harrison to be postmaster at Boyce, Va., in place of G. W. Garvin, deceased.

Samuel R. Gault to be postmaster at Scottsville, Va., in place of S. R. Gault. Incumbent's commission expired May 10, 1936.

WASHINGTON

John M. Hurley to be postmaster at La Conner, Wash., in place of C. R. Kern. Incumbent's commission expires June 28, 1936.

WEST VIRGINIA

Asa T. Miller to be postmaster at Madison, W. Va., in place of C. F. Baldwin. Incumbent's commission expires June 10, 1936.

Lucien Edward Felty to be postmaster at Rowlesburg, W. Va., in place of D. A. Jackson. Incumbent's commission expires July 15, 1936.

WISCONSIN

Alice S. Port to be postmaster at Amberg, Wis. Office becomes Presidential July 1, 1936.

Nellie Drew to be postmaster at Footville, Wis. Office becomes Presidential July 1, 1936.

John A. Brannen to be postmaster at Gratiot, Wis. Office becomes Presidential July 1, 1936.

Clarence L. Peck to be postmaster at Kennan, Wis. Office becomes Presidential July 1, 1936.

Effie M. Jewell to be postmaster at Mindoro, Wis. Office becomes Presidential July 1, 1936.

Fred W. Krohn to be postmaster at Mount Hope, Wis. Office becomes Presidential July 1, 1936.

Russell N. Fuller to be postmaster at Osseo, Wis., in place of B. R. Olson. Incumbent's commission expired May 3, 1936.

James Oliver Luce to be postmaster at Platteville, Wis., in place of C. T. Goodell. Incumbent's commission expired March 17, 1936.

Thomas M. Crawford to be postmaster at Readstown, Wis. Office becomes Presidential July 1, 1936.

John Schippers to be postmaster at Twin Lakes, Wis. Office becomes Presidential July 1, 1936.

Thor C. Gran to be postmaster at Menomonee Falls, Wis., in place of E. F. Pilgrim. Incumbent's commission expired January 18, 1936.

Fred V. Stephan to be postmaster at Shullsburg, Wis., in place of J. W. Harkin, deceased.

Thomas A. Wiora to be postmaster at Wild Rose, Wis., in place of C. E. Sage. Incumbent's commission expired May 3, 1936.

John J. Brogan, Jr., to be postmaster at Green Bay, Wis., in place of J. S. Farrell. Incumbent's commission expired April 12, 1936.

Mary E. Meade to be postmaster at Montreal, Wis. Office becomes Presidential July 1, 1936.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 5 (legislative day of June 1), 1936

UNITED STATES ATTORNEY

Herbert S. Phillips, of Florida, to be United States attorney, for the southern district of Florida.

SECRETARY OF TERRITORY OF HAWAII

Charles M. Hite, of Hawaii, to be Secretary of the Territory of Hawaii.

MEMBER OF THE UNITED STATES TARIFF COMMISSION

Robert Lincoln O'Brien to be a member of the United States Tariff Commission.

MEMBER OF THE FEDERAL POWER COMMISSION

Claude L. Draper to be a member of the Federal Power Commission.

REGISTER OF LAND OFFICE

Mrs. Belle D. Byrne to be register of the land office at Bismarck, N. Dak.

PUBLIC HEALTH SERVICE

John J. Bloomfield to be passed assistant sanitary engineer.

Judson L. Robertson, Jr., to be passed assistant sanitary engineer.

Charles T. Wright to be passed assistant sanitary engineer.

COAST GUARD

Russell R. Waesche to be commandant with the rank of rear admiral.

APPOINTMENTS IN THE NAVY

Richard R. Bradley, Jr., to be ensign.

Clinton McKellar, Jr., to be ensign.

POSTMASTERS

ALABAMA

Leon H. Hinds, Arab.
Martin L. Allen, Ashland.
Mark C. Clayton, Cedar Bluff.
Annie M. Campbell, Lexington.
George C. Nix, Opp.
Oscar Sheffield, Pine Hill.
William H. Hoffman, Summerdale.

ALASKA

Harold T. Jestland, Bethel.
Augustus H. Kingsbury, Jr., Haines.

ARIZONA

William J. Philipson, Ray.
Ettie Owens, Thatcher.

ARKANSAS

Bunyan Gilbert, McRae.

CALIFORNIA

Jerome Beatty, Claremont.
Lawrence C. Murphy, San Gabriel.

COLORADO

John R. Kraxberger, Arriba.
Albina D. Mackey, Climax.
Nea G. Gallegos, San Luis.

CONNECTICUT

Lillian N. Snow, Milldale.

GEORGIA

Joseph R. Nease, Lumber City.
William H. Freeman, Toomsboro.

ILLINOIS

Fred C. Watermann, Bartlett.
Charles T. O'Boyle, Ingleside.
Florence E. Stoerp, Prairie View.

INDIANA

Roy L. Marquis, Bunker Hill.
Walter E. Huber, Centerpoint.
Roy L. Jones, Colfax.
Edward G. Arnold, Dubois.
Jacob De Groot, Highland.
Guy C. Davison, Lewisville.
Harvey W. Crouse, Losantville.
Jeannette Manifold, Mooreland.
Stephen A. Blood, Jr., Owensville.
Orith A. Imhof, Porter.
Faye C. Winsor, Versailles.

IOWA

George H. Abernathy, Blakesburg.
Raymond W. Baxter, Burlington.
Ellen B. Neff, Calamus.
Omar H. Brooks, Cleghorn.
Walter H. Eppens, Colesburg.
Margaret Davidson, Crawfordsville.
Genevieve M. Lattin, Dakota City.
Samuel H. Sater, Danville.
Vernon M. Hill, Davis City.
Juanita Springer, Fremont.
Ida Kelly, Harpers Ferry.
Benjamin Roy Bogenrief, Hinton.
Emilie B. A. Krause, Ionia.
Emmett S. Armstrong, Nevada.
Anna Bliem, Plymouth.
Ruby E. Shinabargar, Randolph.
William H. Rehberg, Rowley.
Claude A. Baber, Rudd.

KANSAS

Emil R. Schwemmer, Durham.
John F. Holshouser, Dwight.
Arden S. Morris, Elmdale.
William H. Schehrer, Eudora.
Albert J. Anderson, Green.
William T. Flowers, Havensville.
Susanna J. Jones, Maplehill.
Carl Eickholt, Offerle.
Helen L. Green, Silver Lake.
Peter J. Romme, Victoria.
Henry M. Otis, Wilsey.
Irene M. Warrell, Zenda.

KENTUCKY

Charles F. Vest, Berry.
George A. Buckner, Blue Diamond.
Lela O. Sanders, Burgin.
James H. Bean, Danville.
John W. Cox, Evarts.
Gilbert Adams, Jr., Flemingsburg.
John B. Pendleton, Hardyville.
John D. McDonogh, Jeffersontown.
Mary Elvira Johnson, Kevil.
James H. Bondurant, La Center.
James C. Morris, Masonic Home.
Everett E. Warren, McHenry.
William M. Back, Monticello.
Irene S. Fentress, Rockvale.
Anna Clare Rapier, Waverly.
William R. Livermore, Waverly Hills.
Sanna Bowling, White Plains.

LOUISIANA

Frank Reed, Basile.
Richard Broussard, Iota.
Henry P. Sobert, Labadieville.
Jacques L. Goudchaux, Le Moyen.
Homer L. Jolley, Morgan City.
John A. Williams, Oakdale.
Mark D. Sutherlin, Oberlin.
Bertha S. Jarnagin, Rochelle.
Albert G. Boudreaux, Thibodaux.
Dudley V. Wigner, Vidalia.

MARYLAND

Isabelle Chaney, Capitol Heights.
Benjamin F. Johnson, Denton.
James H. Bowling, Hughesville.
Elizabeth E. Wood, Sandy Spring.

MASSACHUSETTS

Alfred L. Little, Marion.
Karl F. Koch, Montague City.
Alexander Wylie, Webster.
Mary E. Cooney, West Newbury.

MICHIGAN

Benjamin J. Beasley, Britton.
Royce Glen Hayward, Casnovia.
Mabel E. Sbonek, Cedar.
George T. Deline, Columbiaville.
Floyd Harrison, Conklin.
Ross W. Gilliom, McBain.
Wallace Reynolds, Peck.
Charles J. Schmidlin, Rockland.
Jake D. Bowers, Sodus.
Edgar L. Erskin, Vestaburg.

MONTANA

Nels K. Peterson, Bigfork.
Lee Biggerstaff, Charlo.
Lars E. Kodalen, Dodson.
Frank H. McLean, Fairfield.
Arthur D. Liberman, Fort Harrison.
Theodore P. Hendrickson, Hingham.
Jessie G. Rolph, Joplin.
John C. Abrahamson, Roberts.

NEBRASKA

Richard M. Britt, Doniphan.
Peter P. Braun, Henderson.
Arthur H. Logan, Ponca.

NEW HAMPSHIRE

Stuart W. Heard, Center Sandwich.

NEW JERSEY

Walter K. Bittle, Berlin.
Andrew R. Brugler, Blairstown.
Austin W. Thompson, Chester.
Graham B. Coe, Delair.
Charles Roth, Jr., East Paterson.
David A. Skelley, Fort Lee.
Joseph F. Kour, Little Ferry.
Ethel B. Leisy, Mantua.
William D. Hand, Nixon.
Harry W. Barry, Palmyra.
James W. Potter, Riverdale.
Herbert Schneider, Riverside.
James Powers, Jr., Sewell.
Rose C. O'Hanlon, South Orange.
Otto F. Heinz, Springfield.
John H. Traynor, Westfield.
Thomas H. Heslin, Wharton.
Peter H. Larkins, Yardville.

NEW YORK

Howard C. Gould, Alfred.
William H. O'Brien, Jr., Baldwinsville.
James J. O'Brien, Ballston Spa.
Carl L. Baker, Candor.
George A. Rackett, Greenport.
Peter Loef, Katonah.
Frederic F. Sheerin, Middletown.

NORTH CAROLINA

Miriam H. Calhoun, Laurel Hill.
James C. Helms, Wingate.

NORTH DAKOTA

O. Ingmar Oleson, Ambrose.
Harvey W. Emanuel, Berthold.
Inez Evelyn Donovan, Bowbells.
Mayme E. Fleming, Bowman.
Roald B. Halvorson, Buxton.
Stephen J. Dunn, Center.
Ella J. Fay, Columbus.
Francis Higgins, Dunseith.
Susie Drummond, Esmond.
Louisa A. Bird, Flaxton.
James L. Hatfield, Fullerton.
Florence M. Law, Halliday.
Ethel E. Hall, Hettinger.
John W. Virden, Larimore.
John M. Lipp, Linton.
Lawrence L. Walker, Maddock.
Bernhard C. Hjelle, Mercer.
Carrie M. Chapman, Minnewaukan.
Howard B. Pruitt, Pettibone.
Sarah Alice Ralston, Powers Lake.
David L. Bottom, Rolette.
Mary J. Dunbar, Souris.
Jennie M. Buck, Tappen.
Kermit A. Peterson, West Fargo.

OHIO

Anna L. Adams, Beaver.
Alice B. Romie, Fort Loramie.
Homer P. Galloway, Lore City.
Ann W. Knotts, Magnolia.
Henry G. M. Rolston, McGuffey.
Jessie W. Graham, North Fairfield.
Chester L. Jones, Otway.
Sylvie E. Sovacool, Peninsula.
Charles Calvin Myers, Risingsun.
Frank Thompson, Senecaville.
John Burton Wells, Waynesfield.

OKLAHOMA

Glenn D. Burns, Dover.
Mart R. Sargent, Indiahoma.
Joseph A. Waggoner, Mounds.
Lester F. Wray, Terral.

OREGON

Ethel M. Foster, Clackamas.
Charles W. Perry, Richland.
Gladys M. Heath, Rogue River.

SOUTH DAKOTA

Theodore G. Weiland, Bridgewater.
Herbert C. Hagen, Britton.
Loyal H. McKnight, Bruce.
Charles Gordon Finley, Bryant.
Granvel N. Collins, Camp Cook.
Winfield C. Clark, Canistota.
Violet Ellefson, Castlewood.
John R. Knapp, Colome.
Doris L. Stewart, Cresbard.
Alva I. Addy, Dallas.
Hollis M. Hill, De Smet.
Thomas H. Ryan, Elk Point.
Gladys W. Stanek, Fairfax.
Joseph A. Conlon, Faulkton.
Ernest F. Heuer, Florence.
Albert A. Schmidt, Freeman.
Lucy I. Wright, Hoven.
Aglae Bosse, Jefferson.
Robert C. Baker, Lake Andes.
Ralph H. Lemon, Lake Norden.
Sebastian A. Archer, Lake Preston.
Minnie H. Vickers, Langford.
Fred J. Hepperle, Leola.
Michael P. Garvey, Milbank.
Michael F. McGrath, Morristown.
Arthur A. Kluckman, Mound City.
Paul A. Wiest, Newell.
Eugene M. Coffield, Oelrichs.
John Loesch, Oldham.
Fred J. Foley, Olivet.
Olga R. Otis, Pierpont.
Randolph Y. Bagby, Pierre.
Orval Ogle, Pine Ridge.
Harry F. Evers, Pukwana.
Harvey J. Seim, Revillo.
Albert H. Fogel, Rosholt.
Otto C. Brubaker, Scotland.
Leroy F. Lemert, Spencer.
Agnes Parker, Timber Lake.
James L. Simpson, Veblen.
William A. Bauman, Vermillion.
Roy B. Nelson, Viborg.
Jesse V. Heath, Vivian.
Clarence J. LaBarge, Wakonda.
Marion Peterson, Waubay.
Frank D. Fitch, Wessington.
Frank B. Kargleder, White Rock.

TEXAS

Oliver P. Ford, Fabens.
Vera Harris, Forsan.
Hugh P. English, Kennard.
William A. Gatlin, Lakeview.

VERMONT

Raymond P. Streeter, Franklin.
Agnes M. Bullard, Marshfield.
James McGovern, North Bennington.
Olive M. Mayo, Randolph.

VIRGINIA

James W. Foster, Arrington.
William H. Ranson, Bremo Bluff.
Joseph A. Turner, Hollins College.
Harrison H. Dodge, Mount Vernon.
Walter S. Wilson, Raphine.
Richard F. Hicks, Schuyler.
Lawrence Hottle, Toms Brook.

WASHINGTON

Harvey H. Hartley, Goldendale.

WISCONSIN

Alfred E. Von Wald, Sauk City.
Eva K. Sheen, Union Grove.
Walter H. Sprangers, Waldo.

WITHDRAWALS

Executive nominations withdrawn from the Senate June 5 (legislative day of June 1), 1936

POSTMASTERS

ALABAMA

William H. Stroud to be postmaster at Verbena, in the State of Alabama.

MASSACHUSETTS

Charles W. Hardie to be postmaster at Harwich Port, in the State of Massachusetts.

HOUSE OF REPRESENTATIVES

FRIDAY, JUNE 5, 1936

The House met at 11 o'clock a. m.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, unto whom all hearts are open, all desires known, and from whom no secrets are hid, cleanse the thoughts of our hearts by the inspiration of Thy Holy Spirit, that we may perfectly love Thee and worthily magnify Thy holy name. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

INVITATION TO ATTEND FUNERAL SERVICES

Mr. O'CONNOR. Mr. Speaker, I offer a resolution and ask for its immediate consideration.

The Clerk read as follows:

House Resolution 545

Resolved, That the Clerk of the House is hereby directed to invite the Vice President and the Senate to attend the funeral of the late Speaker, the Honorable JOSEPH W. BYRNS, in the House of Representatives at 12 o'clock meridian on Friday, June 5, 1936.

Resolved, That invitations be extended to the President of the United States and the members of his Cabinet, the Chief Justice and Associate Justices of the Supreme Court of the United States, the Diplomatic Corps (through the Secretary of State), the Chief of Staff of the Army, the Chief of Naval Operations of the Navy, the Major General Commandant of the Marine Corps, and the Commandant of the Coast Guard to attend the funeral in the Hall of the House of Representatives.

The resolution was agreed to.

ADJOURNMENT FROM JUNE 8 TO JUNE 15, 1936

Mr. O'CONNOR. Mr. Speaker, I offer a concurrent resolution and ask for its immediate consideration.

The Clerk read as follows:

House Concurrent Resolution 53

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Monday, June 8, 1936, they stand adjourned until 12 o'clock meridian Monday, June 15, 1936.

The House concurrent resolution was agreed to.

ENROLLED BILLS AND JOINT RESOLUTIONS

Mr. O'CONNOR. Mr. Speaker, I offer a concurrent resolution and ask for its immediate consideration.

The Clerk read as follows:

House Concurrent Resolution 54

Resolved by the House of Representatives (the Senate concurring), That notwithstanding any recesses of the Senate or House of Representatives or the adjournment of the second session of the Seventy-fourth Congress, the President of the Senate and the Speaker of the House of Representatives be, and they are hereby, authorized to sign any enrolled bills or joint resolutions duly passed by the two Houses and which have been examined by the Committee on Enrolled Bills of each House and found truly enrolled.

The House concurrent resolution was agreed to.

CONFERENCE REPORTS

Mr. O'CONNOR. Mr. Speaker, I ask unanimous consent that, notwithstanding the adjournment or recess of the House until June 15, 1936, it may be in order to file conference reports with the Clerk for printing under the rules.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

PRINTING OF FUNERAL SERVICES IN THE RECORD

Mr. O'CONNOR. Mr. Speaker, I ask unanimous consent that the order of services for the exercises today in honor of the late Speaker and the proceedings thereunder be printed in today's RECORD.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

COMMITTEE TO ATTEND FUNERAL

The SPEAKER. Pursuant to House Resolution 544, the Chair appoints as members of the committee to attend the funeral of the late Speaker at Nashville, Tenn., the following Members of the House, which the Clerk will read.

The Clerk read as follows:

The committee to attend the funeral is as follows: Hon. WILLIAM B. BANKHEAD, of Alabama; Hon. BERTRAND H. SNELL, of New York; Hon. J. R. MITCHELL, of Tennessee; Hon. CLARENCE W. TURNER, of Tennessee; Hon. HERRON PEARSON, of Tennessee; Hon. JERE COOPER, of Tennessee; Hon. WALTER CHANDLER, of Tennessee; Hon. B. CARROLL REECE, of Tennessee; Hon. J. WILL TAYLOR, of Tennessee; Hon. WILLIAM B. OLIVER, of Alabama; Hon. HENRY B. STEAGALL, of Alabama; Hon. CLAUDE A. FULLER, of Arkansas; Hon. JOHN A. MARTIN, of Colorado; Hon. JAMES A. SHANLEY, of Connecticut; Hon. CLARENCE F. LEA, of California; Hon. CARL VINSON, of Georgia; Hon. E. E. COX, of Georgia; Hon. D. WORTH CLARK, of Idaho; Hon. JAMES MCANDREWS, of Illinois; Hon. CLAUDE V. PARSONS, of Illinois; Hon. ARTHUR H. GREENWOOD, of Indiana; Hon. GUY MARK GILLETTE, of Iowa; Hon. JOHN M. HOUSTON, of Kansas; Hon. BRENT SPENCE, of Kentucky; Hon. RILEY J. WILSON, of Louisiana; Hon. WILLIAM J. GRANFIELD, of Massachusetts; Hon. WILLIAM P. COLE, Jr., of Maryland; Hon. JOHN D. DINGELL, of Michigan; Hon. CLARENCE CANNON, of Missouri; Hon. WALL DOXEY, of Mississippi; Hon. WILLIAM M. WHITTINGTON, of Mississippi; Hon. CHARLES F. MCLAUGHLIN, of Nebraska; Hon. JAMES G. SCRUGHAM, of Nevada; Hon. WILLIAM N. ROGERS, of New Hampshire; Hon. MARY T. NORTON, of New Jersey; Hon. JOHN J. DEMPSEY, of New Mexico; Hon. THOMAS H. CULLEN, of New York; Hon. SOL BLOOM, of New York; Hon. ROBERT L. DOUGHTON, of North Carolina; Hon. ROBERT CROSSER, of Ohio; Hon. JED JOHNSON, of Oklahoma; Hon. WALTER M. PIERCE, of Oregon; Hon. PATRICK J. BOLAND, of Pennsylvania; Hon. FRANCIS E. WALTER, of Pennsylvania; Hon. JOHN J. MCSWAIN, of South Carolina; Hon. FRED H. HILDEBRANDT, of South Dakota; Hon. JAMES P. BUCHANAN, of Texas; Hon. SAM RAYBURN, of Texas; Hon. ABE MURDOCK, of Utah; Hon. A. WILLIS ROBERTSON, of Virginia; Hon. MONRAD C. WALLGREN, of Washington; Hon. JOE L. SMITH, of West Virginia; Hon. MICHAEL K. REILLY, of Wisconsin; Hon. PAUL R. GREEVER, of Wyoming; Hon. ALLEN T. TREADWAY, of Massachusetts; Hon. CARL E. MAPES, of Michigan; Hon. ISAAC BACHARACH, of New Jersey; Hon. FRANK CROWTHER, of New York; Hon. WILLIAM E. HESS, of Ohio; Hon. BENJAMIN K. FOCHT, of Pennsylvania; Hon. CHARLES W. TOBEY, of New Hampshire; Hon. DEWEY SHORT, of Missouri; Hon. WILLIAM M. BERLIN, of Pennsylvania; Hon. WILBURN CARTWRIGHT, of Oklahoma; Hon. JACK NICHOLS, of Oklahoma; Hon. JAMES M. MEAD, of New York; Hon. R. EWING THOMASON, of Texas; Hon. SIMON MOULTON HAMLIN, of Maine.

AIR CORPS OF THE ARMY OF THE UNITED STATES

Mr. ROGERS of New Hampshire. Mr. Speaker, on Wednesday of this week the Speaker appointed the gentleman from Alabama [Mr. HILL], the gentleman from New Jersey [Mr. MCLEAN], and myself to act as House conferees on the bill (H. R. 11140) to provide more effectively for the national defense by further increasing the effectiveness and efficiency of the Air Corps of the Army of the United States.

Mr. Speaker, I ask unanimous consent that the gentleman from South Carolina [Mr. MCSWAIN] and the gentleman from Vermont [Mr. PLUMLEY] be added as House conferees.

The SPEAKER. Is there objection to the request of the gentleman from New Hampshire?

There was no objection; and the Speaker appointed Mr. MCSWAIN and Mr. PLUMLEY as additional conferees on the part of the House.

AMENDMENT OF EMERGENCY FARM MORTGAGE ACT OF 1933

Mr. KLEBERG submitted a conference report and statement on the bill (H. R. 9484) to amend section 36 of the Emergency Farm Mortgage Act of 1933, as amended.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. BROWN of Michigan on account of important business.

MESSAGE OF CONDOLENCE

Mr. O'CONNOR. Mr. Speaker, I ask unanimous consent to insert in the RECORD at this point a telegram received from the Speaker of the House of Puerto Rico.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

JUNE 4, 1936—7 P. M.

Hon. SOUTH TRIMBLE,

Clerk of the House of Representatives:

Deeply moved by death illustrious Speaker, Hon. JOSEPH W. BYRNS. I desire to extend to the House of Representatives the expression of my heartfelt sympathy for irreparable loss sustained.

MIGUEL A. GARCIA MANDEZ,
Speaker of the House.

RECESS

Mr. O'CONNOR. Mr. Speaker, I move that the House stand in recess, subject to the call of the Chair.

The motion was agreed to.

Accordingly the House (at 11 o'clock and 13 minutes a. m.) stood in recess subject to the call of the Chair.

AFTER RECESS

The House was called to order by the Speaker at 11 o'clock and 55 minutes a. m.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, the Father of us all, give ear to our supplication. Loneliness and silence are broken as our hearts move on through the stillness at the bidding of the voice divine. "O grave, where is thy sting?" Through its gloom and anguish our faith arises. Blessed Lord, we thank Thee for this great soul who has fallen amid his earthly labor and glory. How deep are Thy mysteries and how inscrutable are Thy ways, yet Thy voice is heard. It is heard in solemn warning; it is heard in sweet encouragement to virtue; it is heard in the monitions of conscience and in the aspirations of our better natures. Our beloved Speaker has left us; how blessed his memory. His heights of thought were the hilltops of the common heart; his broad philanthropy reached over all classes with revealing benediction. His loftiness of patriotism fell upon the ears of the reluctant and summoned them to a higher plane. His great nature touched poverty, toil, and wealth. We praise Thee for this statesman whose conscience was ever the pilot of his reason. O divine One of love and mercy, give peace and comfort to his family circle. Bless her who has been at his side with heavenly devotion. Help us all to rise above the gloom of this great shadow into the upper air of spiritual outlook, where there are palaces made without hands and crowns of glory that never fade away. Through Christ our Savior. Amen.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate had

Resolved, That the Senate accepts the invitation of the House of Representatives to attend the funeral of the late Speaker of the House, Hon. JOSEPH W. BYRNS, in the Hall of the House of Representatives at 12 o'clock m., June 5, 1936.

The message also announced that the Senate had agreed, without amendment, to concurrent resolutions of the House of the following titles:

H. Con. Res. 53. Concurrent resolution providing that when the two Houses adjourn on Monday, June 8, 1936, they stand adjourned until 12 o'clock m., Monday, June 15, 1936; and

H. Con. Res. 54. Concurrent resolution providing that notwithstanding any recesses of the Senate or House of Representatives or the adjournment of the second session of the Seventy-fourth Congress, the President of the Senate and the Speaker of the House of Representatives are authorized to sign any enrolled bills or joint resolutions duly passed by the two Houses and which have been examined by the Committee on Enrolled Bills of each House and found truly enrolled.

The message also announced that the Senate had passed without amendment a bill of the House of the following title:

H. R. 8271. An act to amend the act entitled "An act to insure adequate supplies of timber and other forest products for the people of the United States, to promote the full use for timber growing and other purposes of forest lands in the United States, including farm wood lots and those abandoned areas not suitable for agricultural production, and to secure the correlation and the most economical conduct of forest research in the Department of Agriculture, through research in reforestation, timber growing, protection, utilization, forest economics, and related subjects, and for other purposes", approved May 22, 1928.

The message also announced that the Senate had adopted the following resolutions:

Senate Resolution 317—June 1 (calendar day, June 3), 1936

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. A. PIATT ANDREW, late a Representative from the State of Massachusetts.

Resolved, That a committee of two Senators be appointed by the Vice President to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the deceased Representative the Senate do now take a recess until 10 o'clock ante meridian tomorrow.

Senate Resolution 318—June 1 (calendar day, June 4), 1936

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. JOSEPH W. BYRNS, late Speaker of the House of Representatives.

Resolved, That a committee of two Senators be appointed by the Vice President to join the committee appointed by the House of Representatives to take order for superintending the funeral of the deceased, and that a committee of 14 Senators be appointed by the Vice President to join the committee on the part of the House to attend the funeral of the deceased at Nashville, Tenn.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the deceased the Senate do now take a recess until 11 o'clock and 30 minutes ante meridian tomorrow.

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 3467. An act amending the Shipping Act, 1916, as amended;

S. 3770. An act to award a special gold medal to Lincoln Ellsworth;

S. 4052. An act for the relief of of W. D. Gann;

S.4116. An act for the relief of Grant Anderson;

S. 4140. An act for the relief of Homer Brett, Esq., American consul at Rotterdam, Netherlands;

S. 4379. An act for the relief of the Indiana Limestone Corporation;

S. 4391. An act authorizing certain officers and enlisted men of the United States Army to accept such medals, orders, diplomas, decorations, and photographs as have been tendered them by foreign governments in appreciation of services rendered; and

S. 4444. An act directing the Court of Claims to reopen certain cases and to correct the errors therein, if any, by additional judgments against the United States.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3531) entitled "An act to amend the act entitled 'An act for the control of floods on the Mississippi River and its tributaries, and for other purposes', approved May 15, 1928."

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 2456) entitled "An act to provide for the appointment of an additional district judge for the northern and southern districts of West Virginia", requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. NEELY, Mr. HATCH, and Mr. AUSTIN to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H. R. 11915) entitled "An act to amend the Coastwise Load Line Act, 1935", disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. COPELAND, Mr. SHEPPARD, and Mr. WHITE to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H. R. 5730) entitled "An act to amend section 3 (b) of an act entitled 'An act to establish the composition of the United States Navy with respect to the categories of vessels limited by the treaties signed at Washington, February 6, 1922, and at London, April 22, 1930, at the limits prescribed by those treaties; to authorize the construction of certain naval vessels; and for other purposes', approved March 27, 1934", disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. WALSH, Mr. TYDINGS, and Mr. HALE to be the conferees on the part of the Senate.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following titles:

S. 1435. An act conferring jurisdiction upon the United States District Court for the District of Connecticut to hear, determine, and render judgment upon the claim of Elizabeth Kurau;

S. 1464. An act for the relief of Frank P. Hoyt;

S. 1687. An act to incorporate The National Yeoman F;

S. 1769. An act for the relief of Percy C. Wright;

S. 2075. An act to provide for the appointment of additional district judges for the eastern and western districts of Missouri;

S. 2137. An act to provide for the appointment of one additional district judge for the eastern, northern, and western districts of Oklahoma;

S. 3067. An act for the relief of A. J. Watts;

S. 3080. An act conferring jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of John W. Hubbard;

S. 3334. An act to make provision for the care and treatment of members of the National Guard, Organized Reserves, Reserve Officers' Training Corps, and citizens' military training camps who are injured or contract disease while engaged in military training, and for other purposes;

S. 3369. An act providing for the posthumous appointment of Ernest E. Dailey as a warrant radio electrician, United States Navy;

S. 3389. An act to provide for the appointment of two additional judges for the southern district of New York;

S. 3467. An act amending the Shipping Act, 1916, as amended;

S. 3531. An act to amend the act entitled "An act for the control of floods on the Mississippi River and its tributaries, and for other purposes", approved May 15, 1928;

S. 3600. An act for the relief of S. C. Eastvold;

S. 3607. An act for the relief of T. H. Wagner;

S. 3608. An act for the relief of Vinson & Pringle;

S. 3652. An act for the relief of George E. Wilson;

S. 3663. An act for the relief of William Connelly, alias William E. Connoley;

S. 3768. An act for the relief of E. W. Jermark;

S. 3770. An act to award a special gold medal to Lincoln Ellsworth;

S. 3781. An act limiting the operation of sections 109 and 113 of the Criminal Code and section 190 of the Revised Statutes of the United States with respect to counsel in certain cases;

S. 3824. An act for the relief of Maud Kelley Thomas;

S. 3850. An act for the relief of Mrs. Foster McLynn;

S. 3861. An act for the relief of the Alaska Commercial Co., of San Francisco, Calif.;

S. 3992. An act for the relief of Capt. Laurence V. Houston, retired;

S. 4052. An act for the relief of W. D. Gann;

S. 4116. An act for the relief of Grant Anderson;

S. 4119. An act for the relief of Bernard F. Hickey;

S. 4140. An act for the relief of Homer Brett, Esq., American consul at Rotterdam, Netherlands;

S. 4233. An act for the relief of William H. Brockman;

S. 4265. An act to authorize the Secretary of War to set apart as a national cemetery certain lands of the United States Military Reservation of Fort Bliss, Tex.;

S. 4358. An act for the relief of Harry L. Parker;

S. 4359. An act for the relief of W. D. Reed;

S. 4374. An act for the relief of Ruth Edna Reavis (now Horsley);

S. 4379. An act for the relief of the Indiana Limestone Corporation;

S. 4391. An act authorizing certain officers and enlisted men of the United States Army to accept such medals, orders, diplomas, decorations, and photographs as have been tendered them by foreign governments in appreciation of services rendered;

S. 4400. An act for the relief of Barbara Jaeckel;

S. 4444. An act directing the Court of Claims to reopen certain cases and to correct the errors therein, if any, by additional judgments against the United States;

S. 4524. An act to provide a civil government for the Virgin Islands of the United States;

S. 4542. An act authorizing the Comptroller General of the United States to settle and adjust the claim of the Merritt-Chapman & Scott Corporation;

S. 4713. An act validating a town-lot certificate and authorizing and directing issuance of a patent for the same to Ernest F. Brass;

S. J. Res. 61. Joint resolution to repeal an act approved February 17, 1933, entitled "An act for the relief of Tampico Marine Iron Works", and to provide for the relief of William Saenger, chairman, liquidating committee of the Beaumont Export & Import Co., of Beaumont, Tex.;

S. J. Res. 110. Joint resolution authorizing Brig. Gen. C. E. Nathorst, Philippine Constabulary, retired, to accept such decorations, orders, medals, or presents as have been tendered him by foreign governments;

S. J. Res. 151. Joint resolution making provision for a national celebration of the bicentenary of the birth of Charles Carroll of Carrollton, wealthiest signer of the Declaration of Independence;

S. J. Res. 226. Joint resolution authorizing the President to invite foreign countries to participate in the San Francisco Bay Exposition in 1939 at San Francisco, Calif.; and

S. J. Res. 267. Joint resolution authorizing the President to invite foreign countries to participate in the New York World's Fair, 1939, Inc., in the city of New York during the year 1939.

CONSTRUCTION OF CERTAIN NAVAL VESSELS

Mr. VINSON of Georgia submitted a conference report (Rept. No. 2949) and statement on the bill (H. R. 5730) to amend section 3 (b) of an act entitled "An act to establish the composition of the United States Navy with respect to the categories of vessels limited by the treaties signed at Washington, February 6, 1922, and at London, April 22, 1930, at the limits prescribed by those treaties; to authorize the construction of certain naval vessels, and for other purposes", approved March 27, 1934.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee did on June 3, 1936, present to the President, for his approval, bills and joint resolutions of the House of the following titles:

H. R. 190. An act granting authority to the Secretary of War to license the use of a certain parcel of land situated in Fort Brady Reservation to Ira D. MacLachlan Post, No. 3, the American Legion, for 15 years;

H. R. 1997. An act to amend Public Law No. 425, Seventy-second Congress, providing for the selection of certain lands in the State of California for the use of the California State Park System, approved March 3, 1933;

H. R. 2479. An act for the relief of Charles G. Johnson, State treasurer of the State of California;

H. R. 2501. An act for the relief of Mrs. G. A. Brannan;

H. R. 2737. An act extending and continuing to January 12, 1938, the provisions of the act entitled "An act authorizing the Secretary of the Interior to determine and confirm by patent in the nature of a deed of quitclaim the title to lots in the city of Pensacola, Fla.", approved January 12, 1925;

H. R. 3914. An act for the relief of Oscar Gustof Bergstrom;

H. R. 5722. An act to provide for the addition or additions of certain lands to the Colonial National Monument in the State of Virginia;

H. R. 7025. An act authorizing the Secretary of the Interior to furnish transportation to persons in the service of the United States in the Virgin Islands, and for other purposes;

H. R. 7688. An act to provide for the appointment of substitute postal employees, and for other purposes;

H. R. 7825. An act for the relief of Michael Stodolnik;

H. R. 7930. An act to eliminate certain lands from the Craters of the Moon National Monument, Idaho;

H. R. 8039. An act for the relief of John B. Meisinger and Nannie B. Meisinger;

H. R. 8074. An act to amend the act of March 3, 1925, relating to Fort McHenry;

H. R. 8278. An act for the relief of Earl Elmer Gallatin;

H. R. 8312. An act to add certain lands to the Rogue River National Forest in the State of Oregon;

H. R. 8495. An act to amend certain plant-quarantine laws;

H. R. 8884. An act for the relief of Mrs. Ollie Myers;

H. R. 9009. An act to make lands in drainage, irrigation, and conservancy districts eligible for loans by the Federal land banks and other Federal agencies loaning on farm lands, notwithstanding the existence of prior liens of assessments made by such districts, and for other purposes;

H. R. 9170. An act for the relief of Montie Hermanson;

H. R. 9991. An act to extend the time for applying for and receiving benefits under the act entitled "An act to provide means by which certain Filipinos can emigrate from the United States", approved July 10, 1935;

H. R. 10174. An act for the relief of Ezra Curtis;

H. R. 10849. An act to authorize an appropriation for improvement of ammunition storage facilities at Aliamanu, Territory of Hawaii, and Edgewood Arsenal, Md.;

H. R. 11006. An act providing for the examination of the Nueces River and its tributaries in the State of Texas for flood-control purposes;

H. R. 11052. An act for the relief of Joseph M. Purrington;

H. R. 11164. An act for the relief of Arthur Van Gestel, alias Arthur Goodsell;

H. R. 11616. An act to fix the compensation of the Director of the Federal Bureau of Investigation;

H. R. 11768. An act authorizing construction, operation, and maintenance of Rio Grande canalization project and authorizing appropriation for that purpose;

H. R. 11792. An act declaring Bayou St. John, in the city of New Orleans, La., a nonnavigable stream;

H. R. 11821. An act to correct an error in section 16 (e) (1) of the Agricultural Adjustment Act, as amended, with respect to adjustments in taxes on stocks on hand, in the case of a reduction in processing tax;

H. R. 11929. An act granting to the State of Iowa for State park purposes certain land of the United States in Clayton County, Iowa;

H. R. 11969. An act to promote national defense by organizing the Air Reserve Training Corps;

H. R. 12370. An act to authorize a preliminary examination of Big Blue River and its tributaries with a view to the control of their floods;

H. J. Res. 377. Joint resolution to enable the States of Maine, New Hampshire, New York, Vermont, Massachusetts, Rhode Island, Connecticut, Pennsylvania, West Virginia, Kentucky, Indiana, Illinois, Tennessee, and Ohio to conserve and regulate the flow of and purify the waters of rivers and streams whose drainage basins lie within two or more of the said States;

H. J. Res. 465. Joint resolution to amend the joint resolution of July 18, 1935, relating to the Seventieth National Encampment of the Grand Army of the Republic, to be held in the District of Columbia in September 1936;

H. J. Res. 497. Joint resolution to permit articles imported from foreign countries for the purpose of exhibition at the International Petroleum Exposition, Tulsa, Okla., to be admitted without payment of tariff, and for other purposes;

H. J. Res. 499. Joint resolution authorizing and requesting the President to extend to the Government of Sweden and individuals an invitation to join the Government and people of the United States in the observance of the three hundredth anniversary of the first permanent settlement in the Delaware River Valley, and for other purposes; and

H. J. Res. 570. Joint resolution authorizing the President of the United States to award posthumously a Distinguished Service Medal to Maj. Gen. Clarence Ransom Edwards.

RECESS

Mr. O'CONNOR. Mr. Speaker, I move that the House stand in recess during the funeral services.

The motion was agreed to.

Accordingly (at 12 m.) the House stood in recess.

FUNERAL OF THE LATE SPEAKER JOSEPH W. BYRNS

ORDER OF SERVICE

Prayer, Dr. James Shera Montgomery, Chaplain of the House of Representatives.
Selection, Representative LOUIS C. RABAUT.
Funeral services, the Chaplain of the House of Representatives.
Address, Mr. Speaker BANKHEAD.
Selection, Representative LOUIS C. RABAUT.
Address, Hon. BERTRAND H. SNELL.
Benediction, the Chaplain of the Senate, Rev. ZeBarney Thorne Phillips.

At 12:05 p. m. the Vice President and Members of the Senate entered the Chamber and occupied the seats assigned to them, the Vice President occupying a seat at the left of the Speaker.

The Ambassadors, the Ministers, and the Chargé d'Affaires of foreign governments, the Major General Commandant of the United States Marine Corps, the Commandant of the United States Coast Guard, the members of the President's Cabinet, the President of the United States, and the members of the family of the deceased Speaker entered the Chamber and were escorted to the seats assigned to them.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, Thou art not only our Father in Heaven but Thou art our Father upon earth. Thou wilt surely hear us when we call and answer us when we pray. Thou hast been our dwelling place in all the generations. Before the mountains were brought forth Thou hast formed the earth and the world, even, yea even, from everlasting to everlasting Thou art God. O look upon us in our sorrow. Pity us, Heavenly Father, in our weakness and our limitations, and shed upon us all the light of Thy Holy countenance and claim us as Thine own. O let the blessings of Almighty God, our Heavenly Father, be upon this stricken family circle. Remember her in rich blessings who has been his support and his encouragement all these years. God bless her with great peace and consolation. Heavenly Father, remind us of the uncertainty of life and the brevity of time and meet us each day by this wisdom and Thy mercy. We praise the memory of him, Heavenly Father. O we have lost such a friend, such a brother, such a Speaker! Gracious God, the armament of his character was courtesy. God bless his memory unto us. Do Thou hear us as we breathe the Savior's prayer.

Our Father, who art in heaven, hallowed be Thy name, Thy kingdom come, Thy will be done in earth as it is in heaven. Give us this day our daily bread and forgive us our trespasses as we forgive those who trespass against us, and lead us not into temptation but deliver us from evil. For Thine is the kingdom, the power, and the glory forever. Amen.

LOUIS C. RABAUT sang Absent (Metcalf).

Reading of Scripture by the Chaplain.

The Chaplain also read the following verses by CLARE GERALD FENERTY:

O Death, thou wert unkind; Why didst thou dim
Those smiling eyes that saw but to console,
Like windows pouring light from out his soul
Into our sunless hearts? Why didst thou limn
With icy touch those lips that knew to brim
With love made vocal for our land? Now toll
Ye bells!—immortal now upon our roll
He lives; and eyes are wet with thought of him.

Ah, Death, not thine the laurels; he shall rob
Thee of thy verdict, nor canst thou decree
A stillness to that heart that knew not dross,
That sacrificial heart whose every throb
Was but a bead in Honor's Rosary,
Whose mysteries have led him to the Cross.

Mr. BANKHEAD. The heart of every Member of the House of Representatives is sorely torn and bruised this day as we contemplate the scene before us—for there lies the recumbent figure of that great American who only the day before yesterday presided over the popular branch of our Federal Government with such grace, dignity, and ability. The cruel blow of destiny which fell with such merciless devastation upon us leaves us chilled and unreconciled. It is but another illustration of the saying that "those who stand high have many blasts to shake them", for there is no question but that the arduous and exacting duties of the Speaker of the House must have contributed very largely to his untimely end.

And so we come, in this solemn and historic hour, to pay sincere but necessarily limited tribute of praise and affection for our departed friend. I use the word "friend" advisedly, for there were so tempered in the heart and soul of JOE BYRNS elements of tolerance, patience, and sympathy that he had drawn to him the ungrudging regard and affection of all men who came within the radius of his genial influence.

It will not be possible within the limitations of this hour to undertake even a partial summary of the long and distinguished public career of our late beloved Speaker. At a later day those who loved and admired him will have fuller opportunity to lay upon the bier of memory the tender flowers of tribute and devotion which his remarkable personality and career so amply justify. Mr. Speaker BYRNS came of a long line of sturdy, devoted, patriotic American ancestors. He was bred and nourished within the bosom of a great Commonwealth, one which has contributed so plentifully to the roster of distinguished men who have played heroic parts in the development of our Republic and in the perpetuation of our institutions.

I imagine that he found constant and enduring inspiration from that sanctuary in his home district where repose the blessed ashes of one of the most picturesque and distinguished sons of America, the indomitable Andrew Jackson. However some men in these modern times seem to find gratification in undertaking to belittle in the estimation of the people the character and ability of their Representatives in Congress, a thoughtful public must believe that under the spirit of our Democratic institution it is no small tribute of praise to be elected to this body for even one term of service, and when such service is extended year by year and into the decades as was the case of JOSEPH W. BYRNS, it is indisputable evidence that he had by his character and ability gained such a high place in the esteem and affection of his constituency that no thought entered their minds of replacing by another this invaluable public servant.

Mr. BYRNS served in the House of Representatives for 28 years and was at the time of his passing away only exceeded in length of service by one Member of the House. No man from the great State of Tennessee during all of its long history had ever served in the Congress of the United States continuously for as long a consecutive period as had Speaker BYRNS. It is needless for me to remind those who hear me of his ability, of his courage, of the equity of his decisions as a presiding officer, of the unfailing patience and generosity with which he treated every approach of his colleagues in the discharge of his public duties, of the dignity with which he presided over a great parliamentary body. These things were part and parcel of the daily life of our late Speaker. There was no vanity in him. There was no retribution in his spirit. There was no littleness in the man. His portrait will be hung in the lobby of the House of Representatives along with those of other great Americans who have presided throughout the years over the destinies of Federal legislation and his portrait well deserves to be placed alongside of those other great Americans. He earned his distinction. It was not in any wise a gratuity.

One other reference—and I trust that I will not violate the cloistered environments of the grief-stricken room where I heard these words fall from the lips of his lovely and devoted companion, with so many years of married happiness, when in speaking of the spiritual courage of JOE BYRNS, she told me that they had been married for 35 years and that never under any circumstances had her husband failed to kneel at his bedside every night to pay his devotion to his Maker and to invoke upon himself the blessings that always come to a humble and a contrite heart. To such a man the grave cannot be a charnel house. It must be a lighted thoroughfare whereby one may pass into a happier and a better world.

I employ a quotation from the eulogy to Ben Hill delivered in the Senate of the United States.

> Every man's life is the center of a circle. Within its narrow confines he is potential. Beyond it, he perishes. And if immortality be a splendid but delusive dream—if the incompleteness of every human career, even the longest and most fortunate, be not perfected and supplemented after its termination here, then he who dreads to die should fear to live, for life would be a tragedy more desolate and inexplicable than death.

I believe JOE BYRNS has gone that way, head up and unafraid.

LOUIS C. RABAUT sang My God and Father, While I Stray (Marston).

Mr. SNELL. My personal friend and colleague, JOE BYRNS, is gone. He has entered that Great Beyond from which no voyager returns.

That inexorable and inevitable thing we call death beckoned our friend away with terrible swiftness, leaving us stunned and our hearts filled with grief.

His life and character cannot better be described than in his own words spoken of another. Eulogizing the late Martin Madden, Mr. BYRNS said:

> We all know that a leader has fallen, a truly great man has passed away; a great legislator and statesman; a splendid, outstanding citizen; * * * a devoted and tender husband and father; a good and intensely loyal friend.

This, he said, epitomized the life and record of Madden, whose sudden death deeply grieved his colleagues and shocked the entire country.

Is not this eulogy by BYRNS in life peculiarly applicable to BYRNS in death?

He died as he had lived—a real man; loved, honored, and respected by his colleagues, and a distinguished Speaker of the House of Representatives.

Our friend "Joe", as we like to think of him, preceded me in the House by three terms. We were contemporaries for 22 years. He apprenticed in lawmaking in the Tennessee Legislature. His experience there as speaker of the house and as a State senator was a firm foundation upon which he reared a notable record of achievement in the larger arena of this House. He went from strength to strength.

Not many days ago, on the one hundredth anniversary of the birth of "Uncle Joe" Cannon, the business of the House was suspended to enable us to pay tribute to his unique life and character as a man and a statesman. And now, today, with heavy hearts, but with unfaltering trust we gather around another "Joe", beloved of all of us, whose mortal, tired body lies in the embrace of death, but the transition of whose soul we behold reborn into a never-ending life.

He and "Uncle Joe" Cannon, who was Speaker when JOE BYRNS first came here, were warm personal friends. "Uncle Joe" was always kind and tolerant toward newcomers. So was JOE BYRNS. This characteristic endeared them to their fellow Members, and many of our colleagues will always remember JOE BYRNS' helping hand, kindly advice, and guidance. Kindliness, I would say, was his outstanding characteristic.

This House, accustomed to appraising men at their true worth, long since came to regard Mr. BYRNS as a potential Speaker. Step by step his conduct in the House and in committee led unerringly to the Speakership. He passed through all the gradations which make for higher honors and greater responsibilities. His successful chairmanship of Appropriations Committee and his deportment on the floor

marked him for leadership, and in the fullness of time he became majority floor leader. This service he rendered with marked ability and resourcefulness.

This duty was laid upon him at a crucial period, during the first 2 years of the present administration, when the greater part of the administration's policy and program was enacted into law. And while, as minority leader, I was not in political accord with all that was done, and often took issue with him, it is only fair to say that no more worthy nor more dauntless friend nor foe than JOE BYRNS ever smiled across yonder dividing aisle. No floor leader was ever put to a greater test. No President ever had a more loyal, faithful, and dependable ally. In good report and ill JOE BYRNS stood steadfast, and it was his intense loyalty to the Chief Executive and his adroit and skillful leadership that piloted administrative measures through the shoals and over the rocks of legislative processes.

The Speakership was the next logical and upward step. And if we consider this elevation as a reward for past political and legislative services well and faithfully discharged, the mantle could not have fallen upon more deserving shoulders than those of JOE BYRNS, of Tennessee, and no man in recent years has come to this high office better equipped by ability, character, and rich experience to perform the exacting duties of Speaker of the House of Representatives.

Speaker BYRNS was a prodigious worker. He did not conserve his energies. This was true to such an extent that his closest friends were alarmed lest he overworked. But his sense of duty was such that he persisted in carrying the full load to the journey's end. If he could have been consulted, he would not have said "nay" to the summons. For an indomitable spirit such as his was would have proclaimed "Let me die at the post of duty, let me go in my harness."

And so the busy, useful, earthly career of JOSEPH WELLINGTON BYRNS is ended.

A busy workman has been beckoned away. The door is shut. We realize that our friend "Joe" has gone, leaving us the rich legacy of an exalted example of life's work well done.

BENEDICTION

Rev. ZeBarney Thorne Phillips, D. D., LL. D., Chaplain of the Senate, pronounced the benediction, as follows:

May the peace of God which passeth all understanding keep your hearts and minds in the knowledge and love of God and of his son Jesus Christ, our Lord, and may the blessing of God Almighty, the Father, the Son, and the Holy Spirit, be upon you and all who are near and dear unto you, both here and yonder, and remain with them and with you forever. Amen.

Thereupon the President and his Cabinet, the Diplomatic Corps, the General of the Armies, the Chief of Staff of the United States Army, the Chief of Naval Operations of the Navy, the Major General Commandant of the Marine Corps, the Commandant of the United States Coast Guard, the Vice President, and the Senate retired.

AFTER RECESS

The House was called to order at 12:55 o'clock p. m.

Mr. O'CONNOR. Mr. Speaker, I desire to make an announcement that the congressional funeral party will leave on a special train over the Southern Railway from the Union Station at 4:55 o'clock p. m. this afternoon.

Mr. Speaker, I move that the House do now adjourn until Monday, June 8, 1936, at 12 o'clock noon.

The motion was agreed to; accordingly (at 1 o'clock p. m.) the House adjourned until Monday, June 8, 1936, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. HEALEY: Committee on the Judiciary. S. 3055. An act to provide conditions for the purchase of supplies and the making of contracts, loans, or grants by the United States, and for other purposes; with amendment (Rept. No. 2946). Referred to the Committee of the Whole House on the state of the Union.

Mr. BURDICK: Committee on Indian Affairs. H. R. 11800. A bill to reimpose a trust on certain lands allotted on the Yakima Indian Reservation; with amendment (Rept. No. 2947). Referred to the Committee of the Whole House on the state of the Union.

Mr. ROGERS of Oklahoma: Committee on Indian Affairs. H. R. 11221. A bill to amend the last two provisos, section 26, act of Congress approved March 3, 1921 (41 Stat. L. 1225–1248); with amendment (Rept. No. 2948). Referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WOLVERTON: A bill (H. R. 12954) to authorize the Crew Levick Co., and such other corporation or individuals as may be associated with it, to construct a bridge across the portion of the Delaware River between the mainland of the county of Camden and State of New Jersey, and Petty Island in said county and State; to the Committee on Interstate and Foreign Commerce.

By Mr. BOLAND: A bill (H. R. 12955) to provide for the completion of the 25-mile spacing of horizontal and vertical control surveys in the State of Pennsylvania; to the Committee on Merchant Marine and Fisheries.

By Mr. PETTENGILL: Joint resolution (H. J. Res. 621) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

MEMORIALS

Under clause 3 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER: Memorial of the Legislature of the State of Louisiana supporting Senate bill 3475 and House bill 9680; to the Committee on Labor.

SENATE

SATURDAY, JUNE 6, 1936

The Senate met at 12 o'clock meridian.

The Chaplain, Rev. ZeBarney T. Phillips, D. D., offered the following prayer:

O Thou whose throne is raised upon the skies, whose footstool is the pave whereon we pray, who dost transcend and yet pervadest all things: Manifest Thyself to us who seek Thee in the shades of ignorance, for seeking Thee and finding Thee are one. Order Thou the ritual of this holy hour, that, rapt into still communion which exceeds the imperfect offices of prayer and praise, we may find in silence the sublimest eloquence of worship as we contemplate Thy blessedness and love. Through Jesus Christ our Lord. Amen.

THE JOURNAL

On request of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Friday, June 5, 1936, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. LEWIS. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Bulow	Fletcher	La Follette
Austin	Byrnes	George	Lewis
Bailey	Capper	Gerry	Loftin
Barbour	Carey	Glass	Lonergan
Barkley	Chavez	Hale	Long
Benson	Connally	Hastings	McAdoo
Bilbo	Coolidge	Hatch	McGill
Black	Copeland	Hayden	McNary
Bone	Couzens	Holt	Maloney
Borah	Davis	Johnson	Moore
Brown	Dieterich	Keyes	Murphy
Bulkley	Donahey	King	Murray